



(Copy right)

Mr. Shaukat Ali.

GROUP PHOTOGRAPH OF
Shri Shankar Acharaya.
Dr. Kitchlew.

Mr. Mahomed Ali.

**THE HISTORIC
STATE TRIAL
OF
THE ALI BROTHERS
AND
FIVE OTHERS.**

Price Rs. 3/- or Sh. 10/-

Copy Right.

Compiled by
R. V. THADANI.

1921.

ILLUSTRATIONS.

————:0:————

1. Group photograph of Moulanas Shaukat Ali and Mohamed Ali with Shri Shankar Acharya in the centre and Dr. Kitchlew in front of them.
2. Moulana Mohamed Ali.
3. Dr. Kitchlew.
4. Shri Shankar Acharaya.
5. Moulana Shaukat Ali.
6. Mr. T. G. Elphinston, Public Prosecutor in Sind.
7. Mr. Ross Alston, Advocate General, Allahabad.
8. B. C. Kennedy ESQR., I. C. S., Judicial Commissioner of Sind.
9. Members of the Jury.

ॐ श्रीः

FOREWORD.

These are strange and stirring times in the history of the world in general and of India in particular, when a tremendous Conflict is going on between the ideals, the outlook, the methods and the Civilisations of the Spiritual and the temporal Forces in the world and wherein the strongholds of Materialism, hitherto deemed impregnable, are being shaken to their very foundations and bid fair to totter and crumble (in the very near future) before the irresistible Power of Religion and Ethics.

Too long and too sadly have even the professed followers of the Lords Shri Krishna, Jesus Christ, Mahomed, Zoroaster and other Saviours of Humanity, trampled in actual practice on the teachings and even the basic principles of Hinduism, Christianity, Islam, Zoroastrianism and other Religions of the world, owing to the subordination of the Kingdom of God and the Spirit, to the rule of Mammon and the flesh. And the most pathetic and tragic consummation hereof was to be found in the fact that this corruption and cancer of the soul (which it would be an atrocious libel on the poor beasts to describe as bestial), extended to and very nearly overran and subjugated even the spiritual East the Cradle of all Religions (not excluding Christianity).

In spite of all such aberrations, however, the Lord Almighty whose "Mercy endureth for ever" has at long last given ear to the supplications of His Servants throughout the world; and hence the world-wide Revolt afcredescribed of the spirit against the flesh, seeking to revive and re-establish the supremacy of God-made law above man-made ones.

The recent trials of seven of us at Karachi for placing God's law above man's are the turning-point in this tremendous struggle so far as India is concerned. The Government of India and the Provincial Governments have at last cast off all their disguises and come nakedly out into the open arena with a defiant challenge of God and the spirit which all India—Hindu, Muslim, Sikh, Parsi and Christian—is inevitably bound to take up unhesitatingly and

carry on relentlessly to a triumphant, clear-cut and epochmaking issue! It is no longer a question of this or that section of the Indian Penal Code but Simply of God *Versus* Man that India is up against to-day and must unequivocally answer.

Adi Shri Shankaracharaya (our great Spiritual Ancestor) came into the world at a time when not merely the Vedant but even the Vedas had got practically extinguished and He was therefore called upon to re-establish the authority first of the Vedas and then of the Vadant. Our times, however, would seem to be of a far worse and terrible character, in that it is not this or that Holy writ but God Himself that temporal Power is now out to dethrone and banish from the world.

A full chronicle of these events pregnant with such vital and tremendous significance to the God-ward progress of Humanity itself, is an absolute necessity and must possess a Spiritual, Historical and Didactic importance which cannot be over-estimated critically. Mr. R. V. Thadani's volume accomplishes this purpose so perfectly in every way that we need only describe it as an *indispensable* Guide for all Earnest Seekers after God!

In addition to the actual details of the case which Our Address to the Jury and the addresses of our co-accused fully elaborate will elucidate and clarify the gravest and most momentous problem that has ever clamoured for a correct and speedy solution at the hands of all godly and humane persons not only of India but all the wide world over.

May the omniscient and omnipotent Lord God of Hosts from whom all glories are illumine the hearts of all his people with the Light that lighteneth the world on the three-fold path of service, love and knowledge whose resultant is the infinite Joy and ineffable Peace that "passeth all understanding"; and may this handbook serve as a humble instrument in His hands for the perfect accomplishment of His gracious purpose and the speedy realisation of our high Destiny! Such is the fervent prayer of

स्वामी श्री भारती कृष्ण तीर्थः

Camp Dakor,
10th Novr. 1921. }

JAGADGURU SHANKARACHARAYA,
OF
Shri Sharada Peeth

PREFACE.

It was in the first week of September 1921 that there were thick rumours in Simla that the Ali Brothers were going to be arrested and placed on their trial in the Courts of Karachi for their speeches made at the All India Khilafat Conference held at that place.

Not wishing to believe that the Government of India would sanction such an event to happen, I did not like to wire the message to 'The Sind Observer' of Karachi whose editor had asked me to wire all news of importance to him, during my stay at Simla.

But the event remained more of a wished than hoped for one and the actual did in fact happen in the third week of the month when not only were the Ali Brothers arrested but with them also five others including Shri Shankar Acharya of Sharadha Peeth, whom the Government characterised in their oft repeated communiques as an imposter who had "assumed" the title of 'Shankar Acharya' but in whose defence the Bombay Chronicle wrote a splendid leader making it clear that every sanayasi must "assume" a 'name' other than his own and that the gentleman in question was the rightful successor of the late Shri Shankar Acharya.

The four other gentlemen arrested were Moulanas Hussain Ahmad and Nisar Ahmed, Dr. Kitchlew and Pir Gulam Mujadid' the first two being leaders of the Khilafat movement and Dr. Kitchlew, being in addition the hero of Amritsar tragedy of Martial Law regime in the Punjab and the last.

Gentleman being a Sarhadi Pir of Sind having migrated to that place about 30 years ago from Kandhar and having fixed his abode at Matiar of the Police Firing fame.

The arrest of Mohamed Ali has an interesting feature about it. He was travelling with Mahatma Gandhi and was on his way to Malabar on a mission of peace. It had been arranged that they should address an audience outside the Railway Station at Waltair where the train was scheduled to stop for half an hour.

The moment Mahatma Gandhi and Moulana Mohamed Ali came out of the train the police of that place presented a warrant to Moulana Mohamed Ali issued not by the District Magistrate of Karachi, but by the District Magistrate of Vizagapatam, not under Section under which Moulana Mohamed Ali has been charged and tried but under Sections 107 and 108 Criminal Procedure Code calling upon him to show cause why he should not give security for keeping peace. Moulana Mohamed Ali was confined for the night in jail and the next morning was produced before the Magistrate and ordered to be released but only to be re-arrested under the warrant issued by the District Magistrate of Karachi.

The arrest of other gentlemen has nothing particular to note excepting the arrest of His Holiness. The Shri Shanker Acharaya of Sharadha Peeth. He was performing a religion ceremony at Dakor in Gujrat which required a few hours to be completed, but as is inevitable under the circumstances, he could not be allowed the time though the District Superintendent of Police who effected the arrest was extremely polite to him.

Moulana Shaukat Ali was arrested at Bombay in the office of the Central Khilafat Committee at 2 o'clock in the morning and sent at once to Karachi by a steamer that was to leave that day. On arrival at Kiamari he was taken to Drigh Road Station and from there to Jail; and this road, for reason of all political prisoners being taken direct from there to Jail has earned the unofficial notoriety of being known as 'The Political Prisoners Road.'

All the accused had been arrested by about the 20th of September and the trial commenced in the Khalikdina Hall on 26th of September.

Complete Military and Police precautions had been taken to safe-guard the hall and to bring the accused from Jail to Court without any untoward incident.

Admission to the Hall was by ticket issued by the District Magistrate of Karachi and he had issued in all about 250 tickets but the manner in which the admission to the hall was effected was considered to be so humiliating that the non-co-operators in a body refused to attend the Court and returned their permits to the District Magistrate and this dignified conduct on their part was responsible for relaxation of the conditions and admission being effected in an honourable manner.

It will be interesting also to note the manner in which the Hall was guarded.

The whole front facing the main Road (Bunder Road) was barricaded with barbed wires and the first door remained entirely closed to the public and was only opened to allow entry to the motor prison-van which brought the accused persons preceded and followed by police and military vans.

The other door from which the public were allowed to come in was guarded by police and the right hand side of the Hall was guarded by European military and the left hand side by the Indian Military and large reserves of police and military forces were kept in readiness at the back of the hall and the adjoining Government buildings on either side of it.

The trial commenced exactly at eleven o'clock on the 26th September and when the accused were brought in, all the people present in the hall including members of the Bar stood up and remained standing till the accused took their seats after having waved greetings to the people.

For the first two days the proceedings were as dry as dry could be, the accused took no part in the proceedings when evidence against them was being recorded but went on reading newspapers supplied by friends; excepting Moulana Mahomed Ali who was watching proceedings with keen interest and taking copious notes.

On the third day when all the evidence had been recorded the Magistrate asked the usual question "Mr. Mahomed Ali, you have heard the evidence of the prosecution witnesses, what have you to say."

Moulana Mahomed Ali thought that was the occasion for making a full statement and he started with it. The poor Magistrate went

on writing till he had covered full 16 pages, when a compromise was arrived at, the Magistrate was to supply a shorthand writer and a typist who was to go to the Jail premises where Mr. Mahomed Ali was to dictate the remaining portion of his statement.

Pir Gulam Mujadid was the second person whose statement was recorded on this day and he delivered a fiery speech full of passion and ill will towards the present administration in India.

With his statement the proceedings terminated for the day and on the following day the attitude of the Magistrate was altogether changed. He would permit no general statement—at any rate he would not record it—though the remaining accused had their say to their hearts content excepting His Holiness Shri Shankar Acharya who for reasons of respecting the rules of his Order would not stand up before any person excepting his Guru, and was even prepared to sacrifice his right of explaining his position in the case rather than break the rules of his Order and did in fact lose his right of making the statement.

A word of explanation is also necessary in defence of the attitude of the Magistrate.

Under the law, an accused person is entitled to make a statement to explain the evidence led against him and the proper time, when he can have his full say, is the time when he addresses the Court after the evidence on both sides has been finished. Hence though the Magistrate on the first day gave full latitude to Mr. Mahomed Ali and Pir Gulam Majadid, he, on the next day, was perfectly within his rights to stop the accused from making any speech, though it might have been more 'politic' if he had adopted a uniform course of conduct and had not deviated from his original line of action. He might have also acted with better discretion and allowed Shri Shankar Acharya to make his statement sitting specially when he made it clear to him that he meant no indignity to Court but was so acting, because he wished to respect the rules of Sanyas to which Order he belonged. The magistrate might have at least accepted his written statement which was ready for being presented to Court.

But what was more surprising still was that on the subsequent days of hearing of the case and in the separate trials against Showkat Ali and Mahomed Ali the Magistrate again reverted to his old course of conduct and recorded every word of what the accused said. This is indeed inexplicable.

Another interesting feature of the trial in the lower Court is the fact that though witnesses against Shri Shankar Acharaya were named in the list of witnesses filed with the complaint yet none of them were examined at first and even afterwards in the post committal proceedings only one of them was examined and shorthand notes and transcript thereof put in for the first time then.

Post committal proceedings may have been rendered necessary for reason of the witnesses not being present at the committal proceedings but what is difficult to understand is the unexplained fact why witnesses against Shankar Acharaya were not examined in the first proceedings and why the shorthand notes and transcript thereof not put in then !

The Sessions Court proceedings commenced on 26th October and a faithful and complete record of the proceedings is to be found in the body of the book.

Things went on smoothly on the first day and though the accused did not get up when the Judge entered and left the Court house as is usual practice, he did not apparently take notice of this conduct, but sent a word in the evening to Maulana Mahomed Ali, that if they did not show the usual courtesy to the Court, he would be obliged to deprive them of the privilege of sitting on chairs during the conduct of the case. This message was duly conveyed to Moulana Mahomed Ali but he smilingly said that no one could prevent them from sitting on the ground if their chairs were taken away and they would rather feel more comfortable in that posture, but they would not show respect demanded of them to the Court.

This attitude of mind, though unfortunate, was in fact adopted by all the accused the following day, with the deplorable result that their chairs excepting that of Shri Shankar Acharaya were ordered to be taken away but the accused vacated them of their own accord before the order could be carried out and seated themselves on the ground including Shri Shankar Acharaya who voluntarily surrendered his chair and preferred to remain seated on the ground with his co-accused.

The Judge still insisted upon the accused getting up, but they were equally firm in their resolve of remaining seated and did so in spite of the threats of prosecution for contempt of Court. Luckily matters went no further and the Judge dropped all further proceedings though it must be conceded that he could have had his will enforced had he so desired it.

One curious thing that requires to be noted is that after lunch some of the non-co-operator visitors had removed their own chairs too and had preferred to remain seated on the ground out of sense of respect for their revered leaders, but alas! this *sense of respect soon disappeared*, as only after a couple of days, when things grew more interesting these gentlemen too could not resist the temptation of using chairs as support for their weary limbs though some of the devout and personally attached followers of the accused remained throughout the trial, seated on the ground.

Things warmed up a good deal when Moulana Mahomed Ali was addressing the jury, and very serious situation indeed was averted by the tactful handling of it by the Judge.

The only thing arresting attention in this case is the astounding application by the Public Prosecutor in Sind on 3rd November 1921 under sections 269 and 309 Criminal Procedure Code, after the sentence had been pronounced on 1st November 1921,—asking the Court to give *Judgment* on the 1st charge in the case.

It would appear from the perusal of the application *that the learned Public Prosecutor of Sind wanted, in effect, the case to be re-opened, as his request implied that assessors should be recalled, their opinion recorded afresh and the Judge to pronounce his Judgment in presence of the accused in accordance with the terms of section 367 of the Criminal Procedure Code, which evidently, according to the Public Prosecutor had not been done.

The learned Public Prosecutor seems to have ignored section 369 Criminal Procedure Code which prevents any Court other than High Court from altering or reviewing its Judgment after *signing it*, except as provided in sections 395 and 484, or to correct a clerical

* Application is given at the end of the proceedings in the Court of Sessions. Ed.

error. And in this case the Order of Sentence had been signed on 1st November 1921 and in my opinion rule 3 Chapter XIV of the Rules of the Court of the Judicial Commissioner in Sind does not give any power to the Court to over ride the provisions of law contained in section 367 of the Criminal Procedure Code.

But this application of the Public Prosecutor and the order thereon of the Judge open another important question which affects the legality of the judgment itself and its validity.

It would appear from the order of the Judge on this application that he too admits that an error has been committed because he says:—

"I am sorry there has been this mistake due to the bad acoustic properties of the Court. *I am afraid it is too late for me to do any thing.*"

Now what is this error:—

The error in terms of the Public Prosecutor's application was:—
"That the first charge being triable with the aid of assessors, the Judge should not have passed sentence under the *provisio* of Section 367 Criminal Procedure Code thus treating it as a charge triable with the aid of Jury but that he should have acted under *clause 1* of Section 367 that is to say he should have mentioned in his Judgment point or points for determination, the decision thereon and his reasons for the decision. And this is exactly what the Public Prosecutor wanted to be done after the case was over--though his obvious object was that as the Judge in his direction to the Jury had stated:—

"That there was a far-reaching and wide spread conspiracy which included among its objects the seduction of the troops".

And at another place "From that moment (when the doctrine of the unlawfulness of the military service began to be preached) in my opinion the Khilafat agitation became illegal and those who joined it were members of a conspiracy regardless of the fact whether any attempts were made directly to seduce the troops."—he (the Judge) should now disregard the opinion of the assessors and convict the accused under Section 120B/115 read with Section 131 of the Indian Penal Code.

Though the learned Judge considered the application too late to do anything in the matter and also because he did not accept the view of the Public Prosecutor because he says:—

"I am still of opinion that where there are two charges, one triable by the Judge with a Jury and the other by the Judge and assessors and these charges are very closely connected, so that it will be impossible to find the accused guilty on the assessors charges without coming to such a decision on facts that it would have been necessary to find the accused guilty on the Jury charge also, had that been triable by the assessors, the Judge can leave the whole case to the Jury. To act otherwise would, I think, be to destroy any sense of responsibility in the Jury. I have always myself proceeded on those lines in Jury cases. I did so in the present case with more assurance because the charges were originally one and were only divided in this Court (as I thought) for convenience and for the better information of the accused. In any case the question is rather academic because so far as I can see had I found the accused guilty on the first charge, I should not, as I was not prepared to refer the Jury's finding on the second charge to the High Court, have passed any other sentence than I did. If these views of mine are wrong they can be tested if necessary by an appeal. But of course I cannot now change my Judgment on a material point after dictation to the shorthand writer though the Judgment is not yet signed. I therefore reject this application on the ground that the Judgment is already pronounced."—yet, in spite of the rejection of the application the fact remains that similar irregularity was committed in the disposal of the charges tried with the aid of the assessors as no point or points for determination and decision thereon *and reasons for the decision* have been stated in the Judgment and this omission is very important specially when it is borne in mind that the assessors had added a rider to their opinion to the effect that in holding the accused guilty of the charge under section 505 Indian Penal Code they had not taken into consideration *the deep rooted religious convictions of the accused.* ° - .

Now it would appear from the perusal of the case, that the accused took their stand on the truth of the statement and their *belief* in it, thus claiming to come within *exception* to section 505 Indian Penal Code. The exception to Section 505 Indian Penal Code reads as follows:—

"It does not amount to an offence, within the meaning of his section when the person making, publishing or circulating any such statement, rumour or report has reasonable grounds for believing that such statement, rumour or report is *true* and makes, publishes or circulates it without any such intent as aforesaid."

And though this opinion of the majority of the assessors with its rider, was taken by the Judge as amounting to an opinion holding the accused guilty of the charge under section 505 Indian Penal Code yet, in my opinion, it is open to an interpretation that this rider brings the case of the accused within the exception to the section; and for this reason alone it was necessary to elicit it further and find out what the assessors actually meant by adding this rider to their opinion and for this very reason too it was essential that the learned Judge *should have discussed it*, in his Judgment and given reasons for his decision before convicting the accused and sentencing them to 2 years rigorous imprisonment.

But as is obvious from the perusal of the record, it did not occur to the learned Judge that he had to do any thing beyond pronouncing sentence after recording verdict of the Jury, thus following the proviso of Section 367 Criminal Procedure Code rather than the sub-clause 1 of the section as he should have done.

The result of this irregularity, in my opinion is, that the conviction of the accused is illegal and cannot be cured either by section 537 of the Criminal Procedure Code or by the subsequent note of the Judge written on 4th November on the back of the order of sentence that *Heads of charge to the Jury be treated as part of the Judgment*.

The appellate Court has no materials before it, should the Judgment be challenged in appeal, to see how this rider added to the opinion of the majority of the assessors has been disposed of, and whether it does not really come within the exception to the section.

But the accused are not likely to prefer any appeal, as they are non-co-operators, and that should not prevent justice still being done to them.. Under Section 435 Criminal Procedure Code the High Court may call for and examine the record of any proceedings to satisfy itself as to the correctness, *legality* etc., of any finding

etc., and this has actually been done in the case of Swami Krishnanand who on account of being a non-co-operator did not appeal from the conviction and sentence of 12 months rigorous imprisonment imposed on him by the then City Magistrate of Karachi (K. B. Nabi Bux) for assaulting a policeman but whose sentence was reduced to six months on a reference by the District Magistrate of Karachi to the Court of Sessions, at the instance of the Commissioner in Sind.

Will the Government do so in this case too? My hopes lie in Lord Reading alone! I trust he will rise to the occasion and deny not justice to the Ali Brothers and their comrades.

My task of writing the preface would be incomplete if I did not thank Mr. Mouzam Ali, the legal adviser of Moulana Mohamed Ali and others excepting of the Jagad Guru Shri Shankar Acharaya whom I had the honour and privilege to render any legal assistance that I could, for his (Mouzam Ali's) placing at my disposal for the purpose of this publication, all the addresses to the Jury taken down by his special shorthand reporter and the Memorandum of Mr. Mahomed Ali written from the Central Jail Karachi, on the Judgment of Mr. Kennedy.

I also take this opportunity to thank Mr. T. G. Elphinston Public Prosecutor in Sind, who at my request took the trouble of re-writing his notes of his opening and closing addresses to the Jury. I also thank my brother Mr. N. V. Thadani who has contributed two able notes for this publication one on "The Present Situation" and the other on 'The Khilafat' I must also express my sense of thankfulness to the Press men but for whose co-operation it would not have been possible to place this volume in the hands of the readers at so early a date.

My ambition in bringing out this publication is to place before the public a true, correct and complete record of all the proceedings against the Ali Brothers and their comrades and if I have succeeded in the task, I shall consider myself amply rewarded.

15th December 1921
Karachi Bar,
KARACHI.

R. V. THADANI

THE PRESENT SITUATION IN INDIA.

THE PRESENT SITUATION IN INDIA.

Out of the throes and agony of hope and fear—trembling between life and death—each New Age is born in the cycle of Time, and a new era in the history of the world is opening to-day. The causes of the late War, apart from the combination of circumstances which grouped the different powers of the world on opposite sides, lay in the social and economic life of the people, in their intellectual outlook and political schemes in modern civilization itself: and the problems of peace lie in the clash of ideals and ambition in the shaping of a newer life with the triumph of right over might, and the struggle of authority and empire-cult seeking to hold their own.

India, in this world-conflict, has played a part second to none in the making of history and both through its weakness and strength will determine the future of the East even as it has decided its past. The forces that are at work in the country today have even a greater significance for the world than its entry in the War seven years ago, when it saved the allied situation in France and turned the scale in their favour by its achievements in Mesopotamia. But it is not in population or potential wealth alone that India is great or powerful. Its ancient civilization, deep-rooted and fervid religion, and the simplicity of the life of the people, while they have made it an easy prey of each foreign invader, fill it with an energy of soul which, when awakened, is irrepressible.

It is unnecessary to examine into the growth of the spirit of Indian nationality of the character of British rule in India and the part it has played in the history of the country. But while it would be ungrateful to deny its benefits—and the unification of the land by means of a common law, a common system of education and the opening up of communications and drawing it closer to the rest of the world is among the greatest of its achievements—it is only fair to consider the ever increasing poverty of the vast majori-

TRIAL OF ALI BROTHERS & OTHERS.

ty of the people and their gradual emasculation and consequent degradation, moral, intellectual and physical, as greatly counterbalancing, directly or indirectly, the good it has done. The "educated class"—a small microscopic minority fed on the western ways of thought—were not slow to perceive the underlying principles of British rule in India—based on the continuance of racial and intellectual superiority—but felt that the cleavage between Hindus and Mohammadans, and between classes, castes and creeds was too great to make for united action. Those who were the loudest to proclaim the "providential" advent of British rule in India, found no inconsistency in carrying on a "constitutional agitation" for the redress of local wrongs or a measure of reform in the central Government; but, while dreaming of Swaraj under some ideal conditions of freedom, were certain in their hearts that it was impossible to achieve it as the reward to service or loyalty, or through an intellectual recognition of equality in the eyes of law. The professional, and particularly the lawyer class, the most independent, though shrewd and calculating section of the educated community, were content to agitate against the Government as well as to imitate its very ways in their dealings with the mass of the poor, ignorant people, who saw rising up before them the barrier of a new Indian Caste, and felt the weight of a double yoke, foreign and native both; and thus the Government could, with some semblance of truth, profess to regard itself as their chief spokesman,.

The great war took the people almost by surprise, not many, even among the educated, were conversant with trend of European politics, and the masses had only heard of Russia as the great rival of England in the East, knocking at the gate of India through Afghanistan. The contribution of India in men, money and munitions needs no recital; but there was also an under-current of feeling, which though too deeply interested to wish ill to the Allies, yet hoped that the war would make England realise its dependence on India and bring home to it the necessity of satisfying, in its own self interest, the legitimate aspirations of the people. The Hindu—

THE PRESENT SITUATION IN INDIA.

Muslim Entente of 1916 followed by the Memorandum of the Nineteen, outlining a modest scheme of reforms, the Home-Rule-within-the Empire agitation and the Declaration of August 1917, followed by the visit of the Secretary of State to India and the publication of the Montagu-Chelmsford Report, kept the people occupied and expectant; but the suspension of hostilities in November 1918, came with as much suddenness and surprise to the people as the events of 1914. England, victorious and at the head of the Allies, came out of the struggle stronger than ever; and with crippled France, broken Germany, divided Russia, torn Austria, and dismembered Turkey stood alone in its power—when America in its splendid isolation withdrew from the political tangles of the Old World. The system of "Mandates" and the machinery of the League of Nations was, in the eyes of many, but a new form of spoliation and an attempt to dominate the world, under the subtler and more dangerous guise of self-determination coupled with the burden of the White Man. A bleeding world had been led to expect a reign of righteousness and peace based on the Fourteen Points of President Wilson; but found instead selfishness and ambition more rampant than ever.

In India the hope of Reforms was met by the passing of Rowlatt Act, and popular discontent by the tragedy of the Punjab. The people were already in a tense state of excitement; repeated failure of the monsoon, and famine; high prices; heavy taxation, drain of the War, and the havoc of Influenza; all had combined to unsettle their minds: and *hartals* and *Satyagrah*, coupled with some violence, were but an expression of their helplessness, disappointment and the wrath. The dismemberment of Turkey, the last great Muslim Empire, exposed the nakedness of the imperial ambition of England and France, and filled India, Hindu and Muslim with the apprehension that a new chain of bondage was being forged for the East along Basra and Baghdad. Islam saw, in the ruin of Turkey, a death blow to its life, and rallied round the Khilafat to save itself:—and the Hindus, realising the necessity of

TRIAL OF ALI BROTHERS & OTHERS.

unity for national progress made its cause their own. The problems of Egypt and India, Turkey, Persia and China are thus but different manifestations of the same forces at work in the making of a newer East—racial, political and economic—and permanent peace in India can only be restored with a just settlement between a free Asia and an honourable Europe.

No survey of the present situation in India would be complete without a reference to the Non-co-operation movement, and its trilogy of restoration of Khilafat, redress of the Punjab wrongs and the achievement of Swaraj.

It is usual to consider the problem of the Khilafat from a purely religious point of view, as sanctioned in the *Koran* and the *Hadis*. The Military character of its transfer from the house of Abbas to the Turkish house of Osman, when Sultan Selim conquered Egypt in 1517 and induced Khalifa Mohammed solemnly to resign the Khilafat to him and his successors, can no more militate against its spiritual sanctity and direct descent from the Prophet and his Companions than the Captivity of Avignon against the claims of Papacy to Apostolic succession. The Khilafat, in the eyes of non-Muslims may appear to be an anachronism at the present days; but the Khalifa as Vicar of the Prophet of God, the head of the Church, spiritual and militant, Commander of the Faithful and the Supreme Imam of Islam, with the sacred standard, the sword and mantle of the Prophet himself is, even in these days, a symbol of unity and life for the Mohammedan world, drawing together different races of the East under a common banner of faith. Islam, like Christianity, has been a militant church, and Khilafat like the Holy Roman Empire, had both a spiritual and temporal origin—the Pope and the Emperor both in one Sultan. When in after years the Papacy was restricted to spiritual dominion, it was done not at the bidding of a non-Christian power or even a Protestant State, but at the instance of those who professed to be Catholic; while on many occasions the Christian powers of Europe leagued themselves not only to save their religion but to

THE PRESENT SITUATION IN INDIA.

resist the advance of the Turks further west. The Khilafat agitation is but a Moslem parallel to the Christian events of the past, and those who believe that its spiritual and temporal aspects should be considered apart, miss the fundamental issues of the case—the foundations of Islam as a world force, sought to be undermined by non-Muslim powers, and the humiliation of the races of the East by the West:—and so Shias and Sunnis, Indians, Persians and Afghans have, with one voice, desired the integrity of the Turkish Empire.

On ethnic grounds also the case is equally strong. Those who maintain that the kingdoms of a conquered state may be divided among the victors or else the races inhabiting it before that state came into power—without regard to existing population—would see no spoliation in the British and French “mandates” of Mesopotamia and Syria, the assignment of Smyrna and Thrace to Greece or the grant of Palestine to a newly formed Jewish state. It would be possible to justify the “Mandates” if the states concerned had no private ends of their own either in the extension of their empires or the sphere of their influence, or the more material advantages of oil or Eastern granaries. If, like America which poured out its millions of men and money into the lap of Europe and, weighing the balance of victory in favour of the Allies, retired to the shores of the new world without adding an acre to its territory or seeking a “mandate” or a sphere of influence in the East, the present “mandatories” had occupied the lands only to liberate the Arabs and other small nationalities and offered to withdraw completely at the termination of the war, their continuance, at the request of the peoples concerned, would have been justified. The plea of anarchy and chaos following in the wake of such a withdrawal is too self-intersted to be readily accepted, and it is no wonder that the average man in the East regards these “mandates” only as acts of annexation.

With regard to Smyrna and Thrace it is interesting to remember that the Greeks did not form a majority of the population, and

TRIAL OF ALI BROTHERS & OTHERS.

the success of M. Venizelos in playing with statistics is, for the lay-man, is difficult to comprehend. The separation of Smyrna would destroy the economic life of the Turkish empire, while the tyranny of Greek regime has already swelled the number of refugees to the neighbouring countries. The clause providing, under the Treaty of Sevres, for a nominal sovereignty of Turkey for a period of five years, during which Greece is to be responsible for its administration, is meaningless as at the end of that period a plebiscite obtained under the authority of the local Parliament, entirely under Greek control, is bound to result in favour of its incorporation with Greece.

With regard to Palestine, the formation of a Jewish State, to which British has lent its support, means that the Arab and Muslim majority is to be governed by the Jewish minority, and the Zionist policy aims at artificially encouraging immigration of the Jews till they form a majority of the population. Such a policy is a complete negation of the principle of self-determination which is professed to be applied to all. Palestine has been in Muslim hands since 636 A. D. when Omar defeated Heraclius, and Syria and Palestine were lost to the Byzantine Empire; and to the Muslim no less than to the Jews and Christians it is a land of many religious associations; and Islam, absorbing the prophets and traditions of the older faith, holds them as dear as its own; and the tomb of Moses is a centre of Muslim pilgrimage even more than of the Jews.

The Khilafat is, therefore, but a religious interpretation of the integrity of Islamic power, and the Muslim claims to a free and independent Jazirat-ul-Arab—the Island of Arabia—based on the Koran and the Hadis, or ethnology, economics or political morality, are equally just.

The tragedy of the Punjab has so often been graphically described that only a passing reference to it is necessary. Its causes lay in the distrust of India, and the suspicion that beneath the

THE PRESENT SIEUATION IN INDIA.

mask of lip-loyalty and show of satisfaction at the victory of the Allies, educated India was but little pleased with the prospect; and the Rowlatt Act and Dyerism were but an expression of the disappointment and chagrin of Anglo-India at the Declaration of August 1917 and the Montagu-Chelmsford Scheme, supposed to be framed in an hour of weakness and uncertainty of the chances of War. India had been made to acquiesce in the claims of British superiority, physical and intellectual; but the war had exposed the limitations of British power, and filled India with the consciousness of its strength and superiority of civilization, quickened it with self-respect, courage and pride, and kindled it with hope. Anglo-India, unaccustomed to the sight, waited for an opportunity to give vent to its rage, and the hour came with the cessation of hostilities. The Rowlatt Act was passed; the tragedy of the Punjab was enacted; and India, it was believed was safe once more in British hands.

All history is but a commentary on the irony of human power—that greatest weakness is the greatest strength: and the spirit of true Indian manhood and nationality was born on the day of the Jullianwalla Bagh. The Reform Act of 1919 could do little to allay popular indignation, and with the announcement of the Treaty of Sevres with Turkey, the Non-cooperation movement was launched, and the Congress creed modified to admit of Swaraj, within or without the British Empire, as circumstances might lead.

It is unnecessary to examine the original programme of the Non-co-operation movement—Renunciation of titles, boycott of councils, withdrawal of students from Government or aided schools and colleges, to be followed by abandonment of civil and military services and non-payment of taxes—or to consider the inclusion of the removal of untouchability, spinning and swadeshi, at first an after-thought and then as essential part of the movement. Even Swaraj, which figures so largely to-day, was not regarded at first as important as the restoration of the Khilafat and the redress of the Punjab wrongs, and came in, under political pressure of the Con:

TRIAL OF ALI BROTHERS & OTHERS.

gress, as a hand-maid, only to occupy its proper place at the head of all. The whole movement is an experiment in human psychology and action, and its priests no less than its votaries have been obliged to adapt themselves to circumstances. It would be an error to regard it from isolated standpoints—religious, political, intellectual, social, or economic: it is a movement of Indian life, with all its ideals and dreams, mingled with the grosser elements of a work-a-day world—clamour and illogic and superstition. The eye of the Critic that pierced through the heart of a "Satanic" Government was not slow to perceive the blackness of its own brother too, and the enthusiast who girded up his loins to "paralyse" the beauracracy soon realized how deep was the paralysis nearer at home. The gaze was turned inward as well as outward—and idealism as well as expediency dictated the programme.

The principal method of Revolution has, in the past, been that of violence—deepening for a time, under a sense of wrong, and bursting out, on a sudden, to overwhelm both the ruler and the ruled. The Non-co-operation movement, also, is essentially revolutionary in principle: it seeks to mend or end the existing Government—by the pressure of public opinion or the breaking of civil laws and non-payment of taxes; and its creed of non-violence, followed to the end, makes it much more difficult to baffle or beat than an armed rebellion. Spiritually, it is a belief in love as conqueror of hate, and death as the rebirth of life. Psychologically, it is a recognition of the superiority of thought to things—of mental to physical force; and a consciousness of the fact that man, with all the modern instruments of war, has but a limited power of destruction, and that one epidemic of Influenza can carry away, in India alone, more victims in a space of four months, than all the machine guns, submarines and aeroplanes in four years of a world-war.—] is a realization of the impossibility of carrying on a conflict when there is nothing to oppose tyranny or aggression, and the weaker is prepared for torture or death, but would not yield. Politically, it is a knowledge of the dependence of the Government on the people—

THE PRESENT SITUATION IN INDIA.

that co-operation is the bond of all society. It is a conviction that no civilized Government, however powerful, will be so foolish as to disregard foreign political combinations, changing from time to time, and destroy itself by pressing matters, with a determined people, to an extreme. Thus it seeks to effect a change, evolution or revolution, as viewed from different stand-points—accomplished by a force, superior to the sword, and no less destructive of the idols of the mind than munitions of war in the physical world. Courage, determination, suffering and the power to face death are even more necessary in this species of warfare than the ordinary one with arms—even as its result is more certain of accomplishment. It requires the stuff of which heroes and martyrs are made, and a small number of genuine non-violent non-co-operators are enough to leaven the whole world. No country, however, can pretend to rise to that height of the soul, and India is no exception; but though its non-violence may be the helplessness of the weak, it derives a certain amount of security from the vastness of the country and its population, which cannot be governed by sheer force for any length of time without weakening, and ultimately destroying, the Government that attempts to resort to its naked use. As a method of practical politics it consists partly of idealism and partly of expediency, calculation and make-believe, sincere enough for the time-being to appear genuine in action.

Such is the material moulded by Mr. Gandhi into the offensive and defensive weapons of war, and his non-co-operation movement brings together the Moulvi and Saunyasi, the masses and the classes, the philosopher, lawyer, and business man, the dreamer and the man of deeds, into one fold of comradeship, and each reads into it his own peculiar interpretation of life. Well may he be proud to say that non-co-operation with evil is the message of India to a bleeding and groaning world.

TRIAL OF ALI BROTHERS & OTHERS.

It is with such a movement that the Government of India are faced—a movement as deep-rooted as it is elusive, full of enthusiasm and driving power, appealing to the highest instincts in man; and even in its hour of greatest weakness the most difficult to combat. The Government have all the machinery of modern science, the power of prestige, wealth, organization and vested interests to call to their aid; and no one can doubt that in a real trial of strength, be it of endurance or might, the most optimistic would tremble. But a wise Government would make its peace with the people under the circumstances. The Punjab wrong should be easy to right. The broadest sympathy is always the truest political justice, and yielding gracefully to popular feeling, outraged by humiliation, is a sign not of weakness but strength. The Khilafat demand is also essentially just and reasonable, and the recent Franco-Kamalist agreement should facilitate the path of Britain to an honourable settlement with Islam; while the very vagueness of the idea of Swaraj should make it easy to satisfy all shades of political opinion, including British. The British Empire, strongest during the hour of greatest stress, is weakness to-day in victory; and no oil or aerial route or link of communications across Asia Minor would compensate the loss it is suffering in India and the Muslim world owing to its tortuous and blind-fold policy to-day. It is not enough to say that the Government of India has done its honourable part and the final settlement of policy rests with the British Cabinet; nor can recent political prosecutions, even under common law, lead to anything but harm. The country will not be pacified by playing off Moderates against Extremists or breaking the ranks of the people; and delay will only accentuate the differences, and an appeal to final issues render the solution more difficult than ever. An opportunity came with the visit of the Duke of Connaught; another with the appointment of Lord Reading: but both were neglected. With the Franco-Kamalist agreement has come a new chance, and the Prince of Wales could be the bearer of a new hope. If his visit to India is purely ceremonial, it might, with advantage, have been postponed till better times.

THE PRESENT SITUATION IN INDIA.

There is a tide in the affairs of men, and the fate of the British Empire in the East, the destiny of India and the future of the world are being shaped to-day. The fiat has gone forth that no one who is not prepared to die can hope to live. History is expectant and trembles: Will the gods smile or frown?

Hindu College, }
DELHI.

N. V. THADANI.

—:O:—

THE KHILAFAT.

THE KHILAFAT.

Among the many forces that are at work in making of history, Religion has always played the foremost part. While political ambition or economic need has led to the invasion of a country or the annexation of a province, Religion has swept over kingdoms and continents and held millions in the ranks of its followers. The growth and decay of each great religion, subject to the principles of life and death affecting all human institutions, embraces the rise and fall of many kingdoms and dynasties, and affects many countries and peoples of the world. Of such Christianity and Islam are the youngest in History, and their life has many parallels and points of contact, though apparently opposed in the political world.

Religion, though based on revelation and authority combines, in the intellectual field, reason with speculation, and is partly faith and partly conviction. Its strength and weakness lie in the impossibility of knowing the unknowable, and the contingent necessities of society and human life: and while seeking to probe the mysteries of birth and death, and the secrets of other worlds, does not forget to systematise the ordinary work-a-day life that mortals lead on this earth. And, in so far as it is a human institution, it makes use of human powers and utilizes forces at the disposal of man, and becomes a factor of civilization.

There is, thus, no inherent opposition in the union of the Church and the State, and it is only when the Church relying on the arm of physical power, encroaches on the liberty of the divine in Man, that it transgresses the principle of its mission and betrays itself. And so, to the Christians in the Middle Ages the Holy Roman Emperor was as sacred as the Pope, and both were the representatives of God on earth: and the Khalif, in the eyes of the Muslims, was the vicar of the Prophet of God, the Commander of the Faithful and the Imam of Islam—Combining spiritual and temporal power in one.

TRIAL OF ALI BROTHERS & OTHERS.

This unity was a source of weakness and strength to both; but in the case of Christianity when the Church came into conflict with the State, it was possible to confine the Pope to spiritual dominion, without detracting from his authority, for Christ was a teacher and not a prince; while in the Khilafat the loss of temporal sovereignty involved the loss of spiritual power—so closely were they allied in the Prophet and his successors. The history of Muslim power from the days of Mohamed to the rise of the Turks, is, for the most part, the history of the Khilafat; and though the succession of individual Khalifs was some-times questioned or opposed, and some of them were deposed, imprisoned or killed, and for a time their temporal power was reduced to naught, the sword of Islam was unbroken and the idea of the sanctity of the Office of *Khilafat Rasul Allah* (Successor of the Prophet of God) and *Ameer al Mominin* (Prince of Believers) continued unchanged in the minds of the Faithful, and each, in his own way paid homage to the Mahdi, the Imam or the Khalif of his own heart. At last in 1517 the last of the dispossessed Khalifs of Egypt, Motawakkil, abdicated in favour of Selim the Turkish Sultan, and in the eyes of the Muslim world spiritual power was again restored to its temporal dominion, and the most powerful king of Islam became Commander of the Faithful and vicar of the Prophet of God; and with all their broken power, through all the vicissitudes of fortune, the Turkish Sultans continue to retain that title to this day.

Mohamad himself was both Prophet and Prince, ruler and revealer of truth, law-giver and bearer of the message of God, and the tradition of the union of spiritual and temporal power was kept up by his successors. The mantle, after his death fell on Abu Bekr, the father of virgin Ayesha, his beloved spouse; and he was followed by Omar, Osman and Ali in succession. The claims of Ali, the cousin and son-in-law of the Prophet, had been pressed at the time of the succession of Abu Bekr, and gave rise to a permanent division in world of Islam between Shias and Sunnis

THE KHILAFAT.

the supporters of the House of Ali and those who followed custom in the matter of succession to the Khilafat. * Ali was murdered in 661 A. D. and his son Hassan was chosen Khalif; but Moawiya, the head of the Omayyads, to which house Osman belonged, rose into power and Hasan was obliged to abdicate in his favour. After the death of Moawiya in 680 A. D. the rivalry for the Khilafat lay between Hosain, the brother of Hasan, and Yazid, the son of Moawiya. Their armies met at Kerbala on the 10th of Moharram 61 A. H. (10th October 680 A. D.) and Hosain, with most of his followers, fell. The grandson of the Prophet had been killed; Yazid and his men were regarded as murderers, and the Shias still observe the 10th of Moharram as a day of mourning, and think the tomb of Hosain as the holiest place in the world. The Omayyads were established in power with Damuscas their capital, and the hegemony of the East passed from Arabia to Syria; but the Shias rose from time to time, and set up their own Mahids or Imams and were the moving spirit of various sects, Zaidis, Hashmias and others, which supporting the claims of the house of Ali, opposed the Omayyads. They finally joined the supporters of the house of Abbas, the oldest uncle of the Prophet, and succeeded in overthrowing their rivals: but were outwitted by the Abbasids in turn, who claimed the Khilafat for themselves.

Moawiya, Yazid, Abdalmalik, Walid, Solaiman and Hisham were the great Khalif of the Omayyad house and the Muslim empire extended, in the beginning of the 8th century, over Bokhara, Samarkand, Khiva, Kerghana, Tashkent, and even to the frontier of China, Arabia, Syria Mesopotamia, Iraq and Palestine had already been conquered and Kabul and Kandhar subdued; and the soldiers of the Khalif swept over the African Coast, to Carthage, Fez, Tangier and Cents, and carried on successful inroads into the Greek provinces of Armenia and Asia Minor. Sicily was invaded and Syracuse plundered; an expedition was sent into Spain; and the armies of Islam penetrated into India and established themselves in Alor, and Multan. This period also saw the rise of the

TRIAL OF ALI BROTHERS & OTHERS.

Turks, but they were not powerful enough to show their hand as yet and were easily subdued. After Hisham's death in 743 A. D. however, the power of the Omayyad Khalifs declined and his four successors fell an easy prey to the intrigues of the Ali-ites and Abbasides.

The people had been heavily taxed and trouble arose in Khorasan; the Khalif had abandoned the austerity of the Imam for the art and luxury of the court; sects flourished; the tribes were at war and the people divided against one another. Africa and Spain acknowledged but a nominal suzerainty of the Khalif; Khurasan rose in rebellion, and Abu'l Abbas, a descendant of the uncle of the Prophet, at the head of the Ali-ites and supporters of his own, was acknowledged as the Mahdi and proclaimed as Khalif in 749 A. D.

The hegemony of the East passed from Syria to Iraq and the Abbasid Khalifs ruled in Baghdad from 749 to 1258 A. D. when Hulaku the Turkish Khan of the Mongols, entered the capital at the head of a victorious army and Khalif Mostasim, with two of his sons and many relatives, was put to death. A scion of his house sought refuge with the Mameluke Sultan of Egypt, and the descendants of the race of Abbas continued to inherit, at Cairo, the title of Khalif but without the power or influence of that office, and the shadowy sovereignty continued to last till 1517, when the Turkish Sultan conquered Egypt and the last Abbasid Motawakkil was induced to abdicate the Khilafat in favour of the Sultan and his successors, and handed to him the mantle, the sword and the standard of the Prophet.

With the Omayyads, the supremacy of the Arabs came to an end, but during the reign of the Abbasids the power and glory of Islam rose to its highest. Abu'l Abbas, Mansur, Harun-ul-Rashid, and Mamun are names famous in history and romance; and poetry, philosophy and art flourished at the court; war became a science and standing armies took the place of the old tribal levies, and luxury

THE KHALAFAT.

and pomp triumphed over the pious austerity of the older Khalifs. The history of this dynasty is full of internal strife and external war and witnessed the conflicting claims of rival sects to power—Ismailites, Caramathians and Fatimites—the rise of the Turks, and the gradual falling away of province after province till the power of the Khalif was confined to the city of Bagdad—which also succumbed to the attack of Hulaku in 1258 A. D.

After 1517, when Selim 1 the Ottoman Sultan of Turkey, became Khalif and Prince of true Believers, the history of the Khilafat is the history of the Turkish empire—and it comprised, in the days of Solaiman, Greece, Macedonia, Thrace—up to western Hungary, Asia Minor, Armenia and Kurdistan, Syria and Palestine, Mesopotamia, Iraq and Arabia, Egypt, Tripoli and Algiers, to which Georgia, Azerbaijan, Tabriz, Cyprus and Crete were added in after years. Islam shook Christendom and Hindustan, and Turkey was dictator of the world, feared as an enemy and supplicated as a friend. But the period of its glory was also the beginning of its fall; the empire built up by Osman, Bayazid, and Sulaiman slowly declined. Luxury and corruption increased, favouritism grew, intrigues multiplied, and discipline was relaxed; and indulgent Sultans, debased courtiers, internecine feuds and a tainted army, together with the rise of the Christian powers of Europe, brought about the down-fall of the Turkish Empire. The battle of Lepanto had decided the fate of the Turkish power at sea; Austria had come into her own and Russia had risen to power, and the peace of Karlowitz closed in 1700, the chapter of Turkey's offence in Europe.

But Turkey was often drawn into the vortex of European politics and the congress of Vienna (1815) was unable to maintain the balance of power. Egypt became quasi independent, the Greeks rose in revolt; Russia had her eyes on Constantinople and the East, and England and France had their own ends to further—Greece became independent; France occupied Algiers and Mohammad Ali was recognised as the Pasha of Egypt only under the nominal

TRIAL OF ALI BROTHERS & OTHERS.

sovereignty of the Sultan; and Turkey was placed almost under the power of Russia. Then came a change; reforms were introduced: administration was remodelled and education improved, and the treaty of Paris (1866) seemed to usher a new era of Turkish hope. But Russia soon repudiated the treaty. Bosnia and Herzegovina revolted and were followed by Bulgaria, Servia and Montenegro. The treasury was empty and Russia joined the conflict, and the treaty of San Stefano (1878) followed by the Congress of Berlin, signalled by the collapse of Turkish power in Europe.

Disappointed in England, Turkey had turned to Germany (1890) which under the Hohenzollerns, had risen into a compact and powerful empire. The young Turks rose into prominence and with the "bloodless" Revolution of 1908 the hopes of the party of constitutional progress rose high. But the success of the young Turks was a menace to Balkan and Austrian power, and the Emperor of Austria annexed Bosnia and Herzegovina and declared the independence of Bulgaria. The young Turks were confronted with many difficulties at home as well. The Christian communities fell apart: and trouble arose in Albania, Macedonia and Asia Minor. The Balkan war of 1913 weakened the Empire yet more, and a death blow was given by the last Great War; and either by means of "mandates annexation or the creation of new states, according to the misapplication of theory of "self determination" the whole of the Turkish Empire has been dismembered. The British "mandate" over *Arabia*, Mesopotamia and Iraq; the French "mandate" of Cilicia and Syria; the assignment of Smyrna and Thrace to Greece; the formation of a Jewish state in Palestine, and the internationalization of the Dardanelles, leave to Turkey the Constantinople littoral in Europe under the guardianship of the Allies, which too, but for the Bolshevik regime, would have belonged to Russia; and Asia Minor has been occupied by the Turks in spite of the Allies, who yet contemplate a Christian republic in Armenia.

Such is, in brief, an account of the fortunes of the Khilafat as vested in the Omayyads, Abbasids or the Ottoman Sultans of Tur-

key embodying the rise and fall of the temporal power of Islam. With the collapse of Turkey dies the last hope of a great and independent Muslim power in the world, and the true followers of the Prophet may well contemplate the future with anxiety and grief. The traditions of the spiritual power of Islam have always been bound up with its temporal dominion, such as, except in the case of some Buddhist princes, has never been in the history of any other religion in the world. It is true, indeed, that the Shias never acknowledged the claims of any but the House of Ali to the Khilafat and from time to time challenged and opposed Omayyads and Abbasids, both, and set up rival Mahdis and Imams of their own; it is also true that some of the faithful denied the principle of inheritance in the Khilafat, and others that the Prophet had no Khalif to succeed him; and it is true again that several of the Khalifs had little influence or authority outside their palace and lived only for "sermons and a pension." But even in their darkest days, Mohamed Tuglak and Ferozshah, Emperors of Delhi paid voluntary homage to the Abbasid Khalifs of Egypt, honoured them above all men on earth, and coins were struck in their name. Besides, the sword of Islam was unbroken, and though the Abbasids fell Seljuks rose to temporal power--and when Sultan Selim of Turkey became Commander of the faithful, the event was hailed by the world of Islam as a consummation of their desires and hopes. To-day, it is otherwise--Turkey is crushed even as Muslim empires equally great have been in the past, but the Khilafat might have survived had there been an Abbasid to take the place of an Omayyad or an Ottoman prince to revive the hope of Islam. In the eyes of the orthodox Muslim Christianity has overthrown Islam, even as Islam might have overthrown Christianity in the heyday of the Turkish Empire. The tradition of his religion, embodying the unity of the spiritual with the temporal for 1300 years, is broken now, and what wonder if he believes that his religion is broken too? The feelings of the Mohmmadan world to-day may be judged by the feelings of the pious Christians in the 8th century when the power of Islam penetrated into Spain and threatened to overthrow

TRIAL OF ALI BROTHERS & OTHERS.

Christinaity; or by those of the people of Central and Southern Europe when the Turkish Empire extended to Western Hungary and dominated the Mediterranean Sea; yet Islam was hardly opposed to Christian religion even as it may be held to-day that in the overthrow of Turkey Christianity is not opposed to Islam—and Queen Elizabeth of England “the unconquered and most puissant defender of the true faith against the idolaters” did not hesitate to seek the help of the Turkish Sultan “against that idolater, the king of Spain”.

For the non-Muslims the fall of Turkey has a different significance—in addition to the death of the last great Muslim power they see in the system of “mandates” an attempt at annexation and in the assignment of Smyrna and Thrace to Greece or the creation of a Jewish state in Palestine, where the Greeks and the Jews are a minority of the population, a negation of the principle of “Self-Determination” which is professed to be applied to all. The old argument of Turkish misrule and oppression of non-Muslim minorities would be convincing were it not that Turkey has been as much a sinner as the victim of circumstances, in which the Christian Nations of Europe have had their part.

The traditions of Islam have never been hostile to Christianity the Prophet himself was sensitive to Jewish and Christian opinion and Palestine is as sacred to Mohammadans as to the believers of the older faith, and though Christianity had its Crusades, the whole history of Islam belies the supposition of an attempt made to subvert the religion of Hazrat Isa or of a Christian power merely because of its faith.

There is, thus, but one solution of the problem of the Khilafat—an honourable peace with Turkey with the restoration of independent power; and a real self-Government, without a system of “mandates” or the shadow of “protection” for the Arab nationalities; and the formation of new state, where necessary, according to the true principle of self-determination by the peoples concerned. This alone can satisfy the self-respect of Islam and the sense of justice of the world.

Hindu College,
DELHI }

N. V. THADANI.

TRIAL OF ALI BROTHERS
AND
FIVE OTHERS.
COMMITTAL PROCEEDINGS.

COMPLAINT.

IN THE COURT OF THE DISTRICT MAGISTRATE, KARACHI.

Zamanshah son of Mahbub Shah, Deputy
Superintendent of Police, residing at
Karachi. Complainant

versus

- | | | |
|--|------|-------------|
| 1. Mahomed Ali of Rampur | ... | } Accused.. |
| 2. Maulvi Hussain Ahmad of Deoband | .... |  |
| 3. Dr. Saifuddin Kitchlew of Amritsar | ... | |
| 4. Pir Ghulam Mujadid of Matiari | ... | |
| 5. Maulvi Nisar Ahmed of Cawnpore | ... | |
| 6. Bharati Krishna Tirthaji alias Venkat-
raman | ... | |
| 7. Shaukat Ali of Rampur | ... | |

•
The complainant abovenamed begs to state :—

1. This complaint in so far as it relates to section 505 I. P. C. is made under authority from the Local Government, whose order dated 31st August 1921 in this behalf together with that of the District Superintendent of Police, Karachi, deputing the complainant to make a complaint under this section is filed herewith.

•

TRIAL OF ALI BROTHERS & OTHERS.

2. On the 9th July 1921 in Karachi Accused No. 1 introduced at the All India Khilafat Conference before an audience of some 2,000 persons, the Resolution which is recited in full in the Order of the Government of Bombay filed herewith. Several Ulemas were present at the Conference. The majority of the persons present were Musalmans.

3. This resolution stated (inter alia) that—

“ This meeting clearly proclaims that it is in every way religiously unlawful for a Mussalman at the present moment to continue in the British Army, or to enter the Army, or to induce others to join the Army. And it is the duty of all Musalmans in general and of the Ulemas in particular to see that these religious commandments are brought home to every Musalman in the Army. ”

4. Accused No. 1, when introducing this Resolution stated that it was a very important Resolution which the persons present should consider to be the essence (lub-i-lobab) of the conference.

5. Accused No. 2 proposed the Resolution and spoke in support of it. Accused No. 4 translated the Resolution into Sindhi and spoke in support of it. Accused No. 3 seconded the Resolution and spoke in support of it. Accused Nos. 5 and 6 also spoke in support of the Resolution.

6. After these speakers had addressed the meeting, accused No. 1 again emphasized the importance of the Resolution and called upon all who agreed to it to stand up, whereupon all persons present including accused No. 7 stood up. Accused No. 1 then exhorted the audience.

7. Accused No. 7 was seated on the dais at the Conference when this Resolution was proposed, when speeches in support of it were delivered and he showed his agreement with it by standing up and voting for it.

COMPLAINT.

8. Accused No. 7 has also by various other acts shown that he was a party to and had engaged in a criminal conspiracy to attempt to seduce soldiers from their allegiance or their duty.

9. The accused have committed offences under sections 120-B read with 131 I. P. C.; they have also committed offence under section 505 and/or 505 read with section 114 and section 505 read with section 117 I. P. C.

The Complainant therefore prays that the accused may be dealt with according to law.

(Sd.) ZAMAN SHAH,
Dy Supdt. of Police.
Complainant.

Karachi, 8th September 1921.

The following witnesses should be summoned to give evidence—

1. Mr. Mahomed Bux s/o Illahi Bux, Deputy Collector, Hyderabad District.
2. Mr. Naraindas s/o Wadhumal, Deputy Superintendent of Police, Karachi.
3. Inspector Lakhat Hussain, United Provinces Police.
4. Sub-Inspector Shah Bahadur, United Provinces Police.
5. Inspector Karamchand, Sind Police at Karachi.
6. Sub-Inspector Abdulla, Sind Police at Karachi.
7. Sub-Inspector Abdul Gaffur, Sind Police at Karachi.
8. • Head Constable Fateh Bahadur, Sind Police at Karachi
9. Head Constable Usman Gani, Sind Police at Karachi.
10. Head Constable Kesholal, Sind Police at Karachi.
11. Basarmal Clerk to the Commissioner in Sind.
12. Topandas Clerk to the Rent Controller, Karachi.
13. Inspector Joshi, Criminal Investigation Department, Poona.

TRIAL OF ALI BROTHERS & OTHERS.

14. Sub-Inspector Nirwan, C. I. D. Poona.
15. Sub-Inspector, C. I. D. Poona.
16. Sub-Inspector Deshpande, C. I. D. Poona.
17. Sub-Inspector Muzumdar, C. I. D. Poona.

The names of further witnesses will be supplied later.

(Sd.) T. G. ELPHINSTON,

Public Prosecutor for Sind.

Karachi, 8th September 1921.

Statement of Complainant Zamanshah son of Mahbub Shah Mahomedan, Hashmi living in Karachi, Deputy Supdt. of Police on s. a.

I produce the order of the D. S. P. Karachi of to day's date deputing me to file a complaint under section 505 I P. C. against the above 7 accused, together with the order of Government of Bombay dated 31st August 1921, authorising the D. S. P. or any police officer deputed by him to file such a complaint (*Vide Ex No. 2 and 3*). I was present on the 9th July at the All India Khilafat Conference when the resolution of which a copy is contained in the order of Government (*Ex No. 2*) was introduced by accused No. 1. The facts stated in the complaint are all true to my knowledge.

(Sd.) ZAMANSHAH,

Dy. Supdt. of Police.

Before me

(Sd.) W. W. SMART,

D. M. Karachi.

8-9-21. Karachi.

I take cognizance of the above complaint under section 190 (1) (a) C. P. C.

Non bailable warrants under sections 75 C. P. C. are issued on accused Nos. 1--3 and 5 to 7.

(Sd.) W. W. SMART,

D. M. Karachi.

-9-21.

SANCTION OF BOMBAY GOVERNMENT.

ORDER.—[Ex. No. 2.]

In pursuance of the provisions of Section 196 of the Code of Criminal Procedure 1898 the Governor in Council hereby authorises the District Supdt. of Police, Karachi or any police officer deputed by him in this behalf to lodge a complaint under Section 505 of the Indian Penal Code, 1860 against

1. Mahomed Ali of Rampur.
2. Maulvi Hussain Ahmed of Deoband.
3. Dr. Saifuddin Kitchlew of Amritsar.
4. Pir Ghulam Mujadid of Matiari.
5. Maulvi Nisar Ahmed of Cawnpore
6. Bharti Krishna Tirathji alias Venkatraman.
7. Shoukat Ali of Rampur.

in respect of their moving, supporting and passing at the All India Khilafat Conference held at Karachi about the 8th to 10th July 1921 the following (sixth) resolution :—

“This meeting of the All India Khilafat Conference heartily congratulates Ghazi Mustafa Kamal Pasha and the Angora Government upon their magnificent victories and the success of their most desperate (or self sacrificing) endeavours in upholding the laws of Islam and this meeting prays to Almighty God that they may soon succeed in expelling the whole of the armies of the Foreign Governments from every nook and corner of the Turkish Empire. In addition this meeting clearly proclaims that it is in every way religiously unlawful for a Musalman at the present moment to continue in the British Army or to enter the army or to induce others to join the army. And it is duty of all the Musalman in general and the Ulemas in particular to see that the religious commandments are brought home to every Musalman in the army. Further more this

TRIAL OF ALI BROTHERS & OTHERS.

meeting also announces that if the British Government were to take any military measures against the Angora Government directly or indirectly openly or secretly then the Musalmans of India will be compelled to commence breaking of laws, i.e., civil disobedience with the concurrence of the congress and to proclaim in the forthcoming annual Sessions of the Congress Committee to be held at Ahmedabad and complete independence of India (and) the Indians and the establishment of a republic Government of India.

By order of his Excellency the Governor in Council dated at Poona this 31st day of August 1921.

Sd. J. CRERAR,
Secretary to Govt. of Bombay.
Home Department Political.

Karachi 8th September 1921.

CONFIDENTIAL.—[Ex. No. 3.]

With reference to Bombay Government Order dated 31st August 1921 authorising the District Superintendent of Police, Karachi or any police officer deputed by him in this behalf to lodge a complaint under section 505 I. P. C. against Mahomed Ali of Rampur and six others whose names are detailed in the said order, the District Supdt of Police, Karachi, hereby in this behalf deposes Mr. Zamansbah Mabbubshah, Deputy Supdt. of Police, to make under the authority granted by the Government of Bombay a complaint under section 505 I. P. C. against the said seven persons before the District Magistrate, Karachi

AUTHORITY TO FILE COMPLAINT.

2. The order of Government referred to above is hitherto attached.

Sd. Illegible.

District Supdt. of Police, Karachi.

To,

ZAMANSHAH MAHBUBSHA, Esqr.,

Deputy Supdt. of Police, Karachi.

Ex. No. 3.

Filed on 26-9-21.

Sd. S. M TALATI,

C. M. Karachi.

Public Prosecutor states that he wishes Sub-Inspector Mahomed Khan of Nowsherah Feroz to be called and that summons be issued on him together with other summonses to witnesses mentioned in complaint.

(Sd.) W. W. SMART.

District Magistrate, Karachi.

12-9-21.

Non Bailable warrant issued on accused No. 4 and handed over to J. C. Curry, Esq.

(Sd) W. W. SMART,

13-9-21.

D. M. Karachi.

TRIAL OF ALI BROTHERS & OTHERS.

IN THE COURT OF THE DISTRICT MAGISTRATE KARACHI.

CROWN.

Versus.

Mohamed Ali and others ... Accused.

It is prayed on behalf of the Crown that this Honourable Court will be pleased to summon the following additional witnesses for the hearing of this case :—

A. For Monday the 26th instant.

1. Mr. Byrns, Assistant Editor 'The Daily Gazette' to give evidence and produce copies of the "Daily Gazette" of the 9th and 11th July 1921 and the original notes taken by his reporter, Mr. Tekchand, of the Khilafat Conference proceedings.

2. Mr. Tekchand H. Mirchandani, residing at 21 Jethmal's Buildings, Garrikhata, Karachi,—Reporter of "The Daily Gazette".

3. Mr. Surendra Nath Sen, Deputy Superintendent, Assam Police, Sylhet.

4. Sub Inspector Mahmudkhan, Sind Police, Naushahro Feroze, Sind.

5. Mr. Mahmud Shah, District Superintendent of Police Indian Police, Mirpurkhas.

6. Mr. P. A. Kelly, District Superintendent of Police Indian Police, Bombay.

7. Inspector G. S. Abdul Karim, Madras Police, Madras.

B. For Tuesday the 27th instant.

8. Colonel Gwyer, Chief of the Staff, Western Command.

APPLICATION FOR ADDITIONAL WITNESSES.

9. Subedar Major Jyia Ram, 99th Infantry, Ahmedabad.
10. Subedar Muhammad Hassan, attached 106th Hazara Pioneers, Quetta.
10. Subedar Azizul Din, 1st/5th Infantry.
11. Mr. H. E. Lucas, Superintendent, Karachi Jail.
12. Mr. N. Damree, Deputy Jailor, Karachi Central Jail to give evidence and produce documents written by accd No. 1 in Jail.
13. Mr. T.K. Jeswani, Editor "New Times" to give evidence and produce copies of the "New Times" of the 11th and 18th July and the original notes taken by his Reporter Mr. A. S. Motwani.
14. Mr. A. S. Motwani, Reporter of the "New Times".

Karachi,
23rd September, 1921.

(Sd). T. G. ELPHINSTON,
Public Prosecutor for Sind.

Order

City Magistrate for disposal.

(Sd): W. W. SMART,
Dist. Magistrate Karachi.

23-9-21

TRIAL OF ALI BROTHERS & OTHERS.

No. SB/ 1641 of 1921.

Sind C. I. D. Office

Karachi, 24th September 1921.

From J. C. Curry Esquire.

District Superintendent of Police, Sind C. I. D.

To,

The District Magistrate,

Karachi.

Sir,

I have the honour to request you kindly to summon the following persons to attend the Court in the case of Crown Versus Mahomadali and others, on Tuesday next the 27th September 1921.

1. Basarmal, Shorthand writer, Commissioner's Office, Karachi.
2. Topandas, clerk, Rent Controller's Office, Karachi.
3. Tekchand, Reporter of "Daily Gazette" Karachi
4. Mr. Burns, Assistant Editor "Daily Gazette" Karachi.

I have the honour to be,

Sir,

Your most obedient servant.

(Sd). ZAMANSHAH.

for D. S. P. Sind C. I. D.

Order

Forwarded to the C. M. Karachi for disposal.

(Sd). W. W. SMART,

District Magistrate Karachi

24-9-21.

WARRANTS OF ARREST.

**IN THE COURT OF THE CITY MAGISTRATE
KARACHI.**

CROWN.

Versus.

Mahomedali and others.

...

...

Accused.

It is prayed on behalf of the Crown that this Hon'ble Court will be pleased to issue a summons to Mr. Burdwani, Reporter of the "New Times" to give evidence and produce his notes of the proceedings of the All India Khilafat Conference on the evening of the 9th July 1921.

27-9-21.

(Sd). T. G. ELPHINSTON,
Public Prosecutor for Sind.

Order

Granted.

27-9-21.

(Sd). S. M. TALATI.
C. M. Karachi.

Warrant of arrest.

To,

George Arthur Cocks, Deputy Inspector General of Police,
C. I. D. Punjab.

Where-as Dr. Saifuddin Kitchlew of Amritsar stands charged with the offence of conspiracy to attempt to seduce soldiers from their allegiance or duty under section 120 B read with section 131 I. P. C. and the offence of abetting Mahomedali of Rampur in making or publishing a statement likely to cause soldiers to fail in their duty, an offence under section 505 and 114 I. P. C. and the offence of abetting more than 10 persons to commit the above offence under section 505 I. P. C.

TRIAL OF ALI

You are hereby directed to arrest the said Dr. Saifuddin Kitchlew of Amritsar and to produce him before me. Herein fail not.

Dated this 8th day of September 1921.

(Sd.) W. W. SMART,
District Magistrate Karachi.

Seal.

on reverse.

Inspector M. Abdul Samad for compliance.

Simla
15th September, 1921.

(Sd.) G. F. COCKS,
D. & C., C. I. D. Punjab.

Dr. Saifuddin Kitchlew arrested on 15-9-20 at 11 A. M. and is produced before the District Magistrate Simla for transfer.

15-9-20.

(Sd.) ABDUL SAMAD
Inspector.

Saifuddin Kitchlew has been produced before me by Inspector Abdul Samad and S. I. Sujjan Singh. I direct that he be transferred to Karachi and be produced before the District Magistrate there.

15th Sept., 1921.

(Sd.) H. S. WILLIAMSON,
District Magistrate, Simla.

Warrant of Arrest.

To

Surjansing Budhsing Sub Inspector of Police Sind C. I. D.

Where as Dr. Saifuddin Kitchlew of Amritsar stands charged with the offence of conspiracy to attempt to seduce soldiers from their allegiance or duty under section 120 B read with section 131 I. P. C. and the offence of abetting Mahomedali of Rampur in making or publishing a statement likely to cause soldiers to fail in their duty an offence under sections 505 and 114 I. P. C. and the offence of abetting more than 10 persons to commit the above offence under section 505 I. P. C.

DR. KITCHELW'S ARREST WARRANT.

You are hereby directed to arrest the said Dr. Saifuddin Kitchlew of Amritsar and to produce him before me.

Here in fail on.

Dated this 8th day of September 1921.

Seal of the D. M. Karachi.

(Sd). W. W. SMART,
D. M. Karachi.

Endorsed on the reverse.

Simla (Sd). G. F. COOKS,
15th September 1921. Dy. Inspector General C I D. Punjab.

Note. Dr. Saifuddin Kitchlew arrested at Simla on 15th September 1921 at 11 a. m. and produced before the D. M. Simla for orders of transfer.

15-9-21. (Sd). SURJANSING,
S I. Sind C. I. D. Karachi.

Saifuddin Kitchlew has been produced before me by Inspector Abdus Samand and Sub Inspector Surjansing. I direct that he be transferred to Karachi and be produced before the D. M. there.

15-9-21. (Sd). H. S. WILLIAMSON,
D. M. Simla

Produced before the D. M. Karachi.

17-9-21. (Sd). SURJANSING,
S. I. Sind C. I. D. Karachi

You are deputed to produce him as speedily as possible before the District Magistrate Karachi.

17-9-21. (Sd). Not legible
District Magistrate.

TRIAL OF ALL BROTHERS & OTHERS.

Present Dr. Saifuddin Kitchlew. He states that he has received no ill treatment by the Police.

17-9-21.

(Sd.) W. W. SMART,
District Magistrate, Karachi.

ORDER.

The prisoner Dr. S. Kitchlew is removed to custody till Monday 26th September. As the other prisoners in this case except accused No. 4 have not arrived and the case will probably be transferred to C. M. Karachi.

17-9-21.

(Sd.) W. W. SMART,
District Magistrate, Karachi.

Sections 75-76.

WARRANT OF ARREST.

To Patrick A. Kelly, Deputy Commissioner of Police, Criminal Investigation Department, Bombay.

Whereas Shaukatali of Rampur stands charged with the offence of conspiracy to attempt to seduce soldiers from their allegiance or duty under Section 120-B read with 131 I. P. C. and the offence of abetting Mahomedali of Rampur in making or publishing a statement likely to cause soldiers to fail in their duty an offence under Section 505 and 114 I. P. C. and the offence of abetting more than 10 persons to commit the above offence under section 505 I. P. C.

You are hereby directed to arrest the said Shaukatali of Rampur and to produce him before me.

Herein fail not.

Dated this 8th day of September 1921.

(Sd.) W. W. SMART,
District Magistrate, Karachi.

SHOUKATALI AND SHANKARACHARYA'S WARRANTS OF ARREST.

Returned duly executed. Shaukatali was arrested by me at 2 a. m. to-day. He is forwarded in custody with Inspector Smith and Sub-Inspector Wahatbeg.

September 16, 1921.

(Sd) Not legible.

Dy. Commissioner of Police C. I. D.

Received from Inspector Smith and handed over and produced before the District Magistrate, Karachi.

Sd. J. C. CURRY,
D. S. P. Sind C. I. D.

Present Shaukat Ali of Rampur.

He states that he has received no ill-treatment from the Police.

18-9-21. Sd. W. W. SMART,
District Magistrate, Karachi.

Order under Sec. 344 C. P. C.

Prisoner is remanded to custody till Monday 26th September as other prisoners in this case have not arrived and the case will probably be transferred.

18-9-21. Sd. W. W. SMART,
District Magistrate, Karachi.

Sections 75-76.

Warrant of arrest.

To, - .

M. K. Kakeri Sub Inspector of Police,

C. I. D. Poona.

Whereas Bharti Krishna Tirathji alias Venkataraman stands charged with the offence of conspiracy to attempt to seduce Soldiers

TRIAL OF ALI BROTHERS & OTHERS.

from their allegiance or duty under section 120-B read with section 131 I. P. C. and the offence of abetting Mahomed Ali of Rampur in making or publishing a statement likely to cause soldiers to fail in their duty an offence under section 505 and 114 I. P. C. and the offence of abetting more than 10 persons to commit the above offence under section 505 I. P. C.

You are hereby directed to arrest the said Bharti Krishna Tirathji alias Venkatraman and produce him before me.

Herein fail not.

Dated this 8th day of September 1921.

(Seal of the
District Magistrate Karachi).

(Sd). W. W. SMART,
District Magistrate Karachi.

Forwarded for compliance,

(Sd). Not legible
D. M. Karia.

16-9-21.

Karachi, 18th September 1921.

Respectfully submitted to the D. M. Karachi with the person mentioned in the warrant also a Punchnama and the box containing papers, letters, books etc. attached in the possession of the said individual. The man has been arrested at Dakore, Karia District on the 16th instant at 6 p. m.

(Sd). M. K. KAKERI,
S. I. of Police C. I. D. Poona.

En route Anand B. B. C. I. Railway.

8-40 p. m. 16-9-21.

Dear Sir,

I am sending accused Bharti Krishna Shanker Acharaya under escort of H. Q. S. I. Maheshwar Singh. C. I. D. S. I. Kakeri also accompanies. He has panchnama of search and large boxes of attached documents in English and Kanarese.

In haste

The D. M. Karachi,
or D. I. G. of Sind.

Sincerely Yours,
(Sd). Not legible.

PANCHNAMA.

Present Bharati Krishna Tirathji alias Venkatraman.

He complains of no ill treatment by the Police on the journey.

(Sd). W. W. SMART,

19-9-21.

D. M. Karachi.

Order under section 344 C. P. C.

The prisoner is remanded till Monday the 26th September 1921 as other prisoners have not been arrested and the case may be transferred to C. M. Karachi.

(Sd). W. W. SMART,

19-9-21.

D. M. Karachi.

PANCHNAMA.

We the undermentioned members of a Punch held in the presence of the District Superintendent of Police Kaira do hereby state that a teakwood box about 9 ft. by 2 ft. recoloured and having two locks on the same has been attached in our presence by the police. The box contains all sorts of print and manuscript letters, papers books &c ; and all these letters, papers, books &c. have been packed in this box by the police in our presence. The box has been labelled and sealed at 4 places in our presence and we hereby certify that the papers, letters books contained in this box have been found from a building known as Ambavadi ; situated in Dakor town Kaira District ; and in this very building Jagad Gurn Shanker Acharya Bharati Krishna Tirathji resides for the present and all the above mentioned letters, papers and books being the property of the above Shanker Acharya have been attached in our presence and the keys of both the locks attached to the box have been taken in charge by the Shanker Acharya in our presence.

In presence of the D. S. P. Kaira.

(Sd). G. D. BHATT,

(Sd). Not legible.

Head Master,

D. S. Police,

A. V. School Dakor,

Kaira

Kaira

Signatures in Gujarati.

6-0 p. m. 16-9-21.

TRIAL OF ALI BROTHERS & OTHERS.

Government (Special Department) telegram dated the 21st September 1921.

"The title Shri Shankeracharya assumed by accused Venkatraman alias Bharati Krishna Tirathji should not be recognized in any official form".

No. 821 of 1921.

Government House, Karachi.
22nd September, 1921.

Copy forwarded for information to the District Magistrate, Karachi.

By Order

(Sd). D. MAC LACHLAN,
Assistant Commissioner in Sind.

No. 179 of 1921,

District Magistrate's Office, Karachi.
Karachi, 23rd September 1921.

Copy forwarded for information to—

- (1) The City Magistrate, Karachi.
- (2) The Superintendent Karachi Prison.

(Sd). W. W. SMART,
District Magistrate Karachi.

Warrent of arrest.

To

Kenneth Charles Rustiton, Deputy Inspector General of Police
C. I. D. Poona

Whereas Maframed Ali of Rampur stands charged with the offence of conspiracy to attempt to seduce soldiers from their allegiance of duty under section 120 B read with section 131 I. P. C. and

MAHOMEDALI'S WARRANT OF ARREST.

the offence of making or publishing a statement likely to cause soldiers in the army to disregard or fail in their duty under section 505 I. P. C. and the offence of abetting more than 10 persons to commit the above offence under section 505 read with section 117 I. P. C. You are hereby directed to arrest the said Mahomed Ali of Rampur and produce him before me.

Herein fail not.

Dated this 8th Day of September 1921.

(Sd). W. W. SMART,
D. M. Karachi.

Seal of the D. M. Karachi.

Reverse

Countersigned

(Sd). Not legible,
District Magistrate Vizapatum.

Forwarded to Kondo Ballal Arkatkar.

Inspector of Police C. I. D. Poona for Execution.

(Sd). K. C. RULITON,
Dy. I. G. of Police C. I. D.

Respectfully submitted to the D. M. Vizapatum. As per warrant of the Distt. Magte. Karachi. Mahomed Ali is arrested to day at Waltiar in the Central jail. He may be sent in proper custody to the D. M. Karachi.

17-9-21.

(Sd). Not legible,
Inspector of Police C. I. D.

Submitted to the District Magistrate, Karachi.
Accused Mahomed Ali is herewith produced.

20-9-21.

(Sd). Not legible,
Inspector General C. I. D. Poona.

TRIAL OF ALI BROTHERS & OTHERS.

Present Mahomedali of Rampur.

He states that he has no complaint of any ill treatment by police since arrest.

(Sd). W. W. SMART,
District Magistrate, Karachi.

Order under section 344 C. P. C.

The prisoner is remanded to custody till Monday 26th September 1921, as all accused have not been arrested yet and the case may be transferred to City Magistrate Karachi.

20-9-1921. (S). W. W. SMART,
District Magistrate, Karachi.

K. B. Arkatka, Inspector of Police, C. I. D. Poona produces a sealed parcel of papers together with a list of contents thereof. The prisoner states that the list is signed by him on each page. He states that these papers may be examined and sent to Begum Mahomedali his wife, addressed to Sangurkhana Street, Rampur.

The parcel together with list is taken into my custody for disposal by the court.

Accused admits his signature on list and says those marked with cross are papers which he particularly wishes to be sent to Rampur as they relate to Khilafat accounts.

20-9-1921. (Sd). W. W. SMART,
D. Magistrate, Karachi.

Warrant of arrest.

To,
Tahilram Dharamdas Deputy Superintendent of Police,
Hyderabad.

Whereas Pir Ghulam Mujadid of Matiari, stands charged with the conspiracy to attempt to seduce soldiers from their allegiance to duty under sections 120 B. read with 131 I. P. C. and the offence

MOULVI HUSSAIN AHMED'S WARRANT OF ARREST.

of abetting Mahomed Ali of Rampur in making or publishing a statement likely to cause soldiers to fail in their duty an offence under sections 505 and 114 I. P. C. and the offence of abetting more than 10 persons to commit the above offence under section 505 I. P. C.

You are hereby directed to arrest the said Pir Ghulam Mujadid of Matari, and to produce him before me.

Herein fail not.

Dated this 8th day of September 1921.

Seal of the
District Magistrate Karachi.

(Sd). W. W. SMART,
District Magistrate Karachi.

The accused Pir Ghulam Mujadid son of Abdul Halim is produced before me.

He is asked whether the Police have in any way injured or wronged him. He says that they have not done so in any way.

The accused is remanded for 10 days as the other accused in the case have not arrived and the case is to be transferred for inquiry to the City Magistrate Karachi.

(Sd). W. W. SMART,
District Magistrate Karachi.

16 9-1921.

Section 75-76.

Warrant of arrest.

To,

Hussain Khan Ghulam Khan, Sub-Inspector of Police, C. I. D. Sind.

Whereas Moulvi Hussain Ahmed of Deoband stands charged with the offence of conspiracy to seduce soldiers from their allegiance

TRIAL OF ALI BROTHERS & OTHERS.

or duty under section 120 B. read with section 131 I. P. C. and the offence of abetting Mahomedali of Rampur in making or publishing a statement likely to cause soldiers to fail in their duty, an offence under section 505 and 114 I. P. C. and the offence of abetting more than 10 persons to commit the above offence under section 505 I. P. C.

You are hereby directed to arrest the said Moulvi Hussain Ahmed of Deoband and to produce him before me.

Herein fail not.

Dated this 8th day of September 1921.

Seal.

(Sd). W. W. SMART,
District Magistrate, Karachi.

Reverse.

Sir,

Moulvi Hussain Ahmed was arrested at Deoband (Saharanpur Distt. in U. P.) on 19-9-1921 at 3-30 a. m. and is herewith produced.

(Sd). HUSSAIN KHAN,
Karachi, 21-9-21. Sub Inspector Police Sind C. I. D.

Present.

Moulvi Hussain Ahmed of Deoband. He complains of no ill treatment by Police on journey.

(Sd). W. W. SMART,
21-9-21. D. M. Karachi.

Order under section 344 C. P. C.

Accused is remanded till Monday the 26th instant as P. P. cannot have the case ready for inquiry before that date.

(Sd). W. W. SMART,
21-9-21. D. M. Karachi.

IN THE COURT OF THE DISTRICT MAGISTRATE
KARACHI.

CROWN

Versus.

1. Mahomed Ali of Rampur.
2. Moulvi Hussain Ahmed of Deoband.
3. Dr. Saifuddin Kitchlew of Amritsar.
4. Pir Ghulam Mujadid of Matiari.
5. Moulvi Nisar Ahmed of Cawnpore.
6. Bharti Krishna Tirathji alias Venkatraman.
7. Shaukat Ali of Rampur.

Application under section 96 Criminal Procedure Code.

It is prayed on behalf of the Crown that this Honourable Court will be pleased to issue a search warrant directed to the Commissioner of Police, Bombay, to search the office of the Central Khilafat Committee and premises appurtenant thereto and the dwelling of accused No. 7, all being in Bombay, for:—

(1). Copies of the Mutafigua Fatwa signed by Accused Nos. 2, 4 and 5 (inter alias) or copies bearing their names or any of them and printed at the Hamedya Press, Delhi; the fatwa being in Urdu and published by Mahomed Kafayat-Ullab, Vice-President, Jama'iat-ul-Ulema Hind, Delhi.

(2). Also for copies of the pamphlet summary of the said fatwa a copy of which is attached herewith.

(3). Also for any correspondence or other documents showing the connection of the accused with this fatwa or pamphlet or with the distribution or publication thereof and the extent of such distribution or publication.

(4). For correspondence or other documents showing that Accused No. 7 is the Secretary of the Central Khilafat Committee and that Accused Nos. 1, 2, 3 and 7 are also members thereof.

Karachi;
10th September 1921.

(Sd). T. G. ELPHINSTON,
Public Prosecutor for Sind.

TRIAL OF ALI BROTHERS & OTHERS.

Order under section 96 C. P. C.

Read application of P. P. for Sind under section 96 C. P. C. asking for search warrant to search the office of the Central Khilafat Committee and premises appurtenant thereto and the dwelling house of accused No. 7 Shaukat Ali of Rampur in the City of Bombay in order to find and produce in the case of Cr. Vs. Mahomed Ali of Rampur and 6 others certain documents which have a material bearing on the above case of which I have taken cognisance on a complaint verified on oath.

The documents mentioned will not be produced if a summons is issued under section 94 C. P. C., as the Khilafat Committee in Bombay are aware of the arrest of accused No. 7. He also will not produce them, as he has been arrested on a warrant of this court. Moreover this court does not know the persons belonging to the Khilafat Committee who have the custody of these documents. A search warrant is therefore issued for the productions of the documents entered in the application addressed to The Commissioner of Police, Bombay.

(Sd). W. W. SMART,
D. M. Karachi.

16-9-21.

TRIAL OF ALI BROTHERS & OTHERS.

IN THE COURT OF THE DISTRICT MAGISTRATE KARACHI.

CROWN

Versus.

- (1). Mahomed Ali of Rampur.
- (2). Maulvi Hussain Ahmed of Deoband.
- (3). Dr. Saifuddin Kitchlew of Amritsar.
- (4). Pir Ghulam Mujadid of Matiari.
- (5). Maulvi Nisar Ahmed of Cawnpur.
- (6). Bharati Krishna Tirathji alias Venkatraman.
- (7). Shaukat Ali of Rampur.

Application under section 96 C. P. C.

It is prayed on behalf of the Crown that this Hon'ble Court will be pleased to issue a search warrant directed to the Superintendent of Police, Lahore, to search the office and premises of the Shauq Press and premises appurtenant thereto, all being in Lahore, for:—

(1). Copies of the Mutafigua Fatwa signed by Accused Nos. 2, 4 and 5 or any of them (inter alias) or copies bearing their names or the names of any of them and printed at the Shauq Press or at the Hamedya Press, Delhi, the Fatwa being in Urdu.

(2). Also for copies of the pamphlet summary of the said Fatwa a copy of which is attached to the application under Section 96 C. P. C. of yesterday's date.

(3). Also for any correspondence or other documents showing the connection of the accused or any of them with this fatwa or pamphlet or with the distribution or publication thereof and the extent of such distribution or publication.

Enquiries as at where the 2nd edition of the Fatwa was printed have elicited the information that the original documents are likely to be at the Shauq Press, Lahore.

Karachi
17th September 1921.

(Sd). T. G. ELPHINSTON,
Public Prosecutor for Sind

SEARCH WARRANT OF SHAUQ PRESS.

Read application of Public Prosecutor for Sind dated 17th September 1921 for search warrant.

Order under section 96 C. P. C.

I have taken cognizance of complaint verified by oath in case of Crown versus Mahomed Ali and 6 others.

The documents for which search warrant is asked for, are very material specially No. 1. They will not be produced unless suddenly seized and it is not known where they will be found but the press which published No. 1 is a likely place.

I issue warrant under section 96 C. P. C. addressed to Superintendent of Police of Lahore.

(Sd.) W. W. SMART,
D. M. Karachi.

17-9-1921.

Order under section 192 C. P. C.

Transfer the case of.

CROWN.

Versus.

- (1). Mahomed Ali of Rampur.
- (2). Maulvi Hussain Ahmed of Deoband.
- (3). Dr. Saifuddin Kitchlew of Amritsar.
- (4). Pir Ghulam Mujadid of Matiar.
- (5). Maulvi Nisar Ahmed of Cawnpore.
- (6). Bharti Krishna Tirathji alias Venkratman.
- (7). Shaukat Ali of Rampur.

Of which I have taken cognizance to the City Magistrate Karachi fore inquiry.

(Sd.) W. W. SMART,
District Magistrate, Karachi.

23-9-21.

TRIAL OF ALI BROTHERS & OTHERS.

This 24th day of September 1921
At a Criminal Court held before S. M. TALATI Esquire, City Magistrate, Karachi.
The Magistrate proceeds with the trial of Case No. 995 of the General Calendar for 1921.
ACCUSED'S

No.	N A M E.	Father's name.	Age.	Religion.	Caste or tribe.	Occupation.	Village.	Taluka.	District.	From what officer received and date when received.
1	Mahomed Ali.	Refused to answer any question.								By transfer from District Magistrate, Karachi.
2	Hussain Ahmed.									
3	Saifudin Kitchlew									
4	Pir Ghulam Mujadid.									
5	Nisar Ahmed.									
6	Bharti Krishna Tirabji.									
7	Shaukat Ali.									

DIARY OF THE CASE.

Case received by transfer from District Magistrate, Karachi, and is already fixed for hearing on 24-9-21.

Accused present in custody.

Statement of Mr. Zamanshah	...	...	Ex. No. 1.
Sanction of Bombay Government	...	...	Ex. No. 2.
Sanction of District Superintendent of Police	...	...	Ex. No. 3.
Mutafika Fatwa (August)	...	...	Ex. No. 4.
Mutafika Fatwa (March)	...	...	Ex. No. 5.
Statement of Mahomed Bux	...	...	Ex. No. 6.
Statement of Keshowlal	...	...	Ex. No. 7.
Statement of Fateh Bahadur	...	...	Ex. No. 8.
Statement of Usman Ghani	...	...	Ex. No. 9.
Statement of Abdul Gaffur	...	...	Ex. No. 10.
Statement of Lakhat Hussain	...	...	Ex. No. 11.
Urdu long hand transcript of Mr. Mahomed Ali's speech	...	...	Ex. No. 12.
Urdu notes by writer No. 11 of Mr. Mahomed Ali's Urdu introductory speech	...	...	Ex. No. 13.
Urdu notes of Hussain Ahmed's speech	...	...	Ex. No. 14.
Urdu notes of Dr. Kitchlew's speech	...	...	Ex. No. 15.
Urdu notes of Nissar Ahmed	...	...	Ex. No. 16.
Urdu notes of Mahomed Ali	...	...	Ex. No. 17.
Statement of Shah Bahadar Khan	...	...	Ex. No. 18.
Urdu long hand transcript of Mr. Mahomed Ali's introductory speech	...	...	Ex. No. 19.
Urdu long hand transcript of Hussain Ahmed's speech	...	...	Ex. No. 20.
Urdu long hand transcript of Dr. Kitchlew's speech	...	...	Ex. No. 21.
Urdu long hand transcript of the speech of Nissar Ahmed	...	...	Ex. No. 22.
Statement of Burns	...	...	Ex. No. 23.
Daily Gazette of 11-7-21 article on page 4 (Resolution No. 7)	...	...	Ex. No. 24.

TRIAL OF ALI BROTHERS & OTHERS.

Notes by the Daily Gazette Reporter	...	Ex. No. 25.
Statement of Karamchand	....	Ex. No. 26.
Urdu notes (Fair copy and original) of		
Shaukat Ali's speech	... ..	Ex. No. 27.
Case adjourned to tomorrow. Accused remanded to custody.		

(Sd). S. M. TALATI.
City Magistrate, Karachi.

24-9-21.

Proceedings resumed.

Statement of Col. Gwyer	... ..	Ex. No. 28.
Form of enlistment of soldiers in the army	...	Ex. No. 29.
Form of enrolment for soldiers on joining the army during the time of war.	... ..	Ex. No. 30.
Three leaflets being proclamations for induc- ing soldiers not to serve in the army	Ex. No. 31 (a) 31 (b) 31 (c).	
Statement of Jaiaram	... ..	Ex. No. 32.
Statement of Azizdin	... ..	Ex. No. 33.
Urdu leaflet being a proclamation for induc- ing the soldiers not to serve in the army	...	Ex. No. 34.
Statement of Mahomed Hussain	... ..	Ex. No. 35.
Urdu leaflet being proclamation as above	...	Ex. No. 36.
Statement of Jeswani	... ..	Ex. No. 37.
Copy of New Times of 11-7-21	... ..	Ex. No. 38.
Copy of New Times of 18-7-21	... ..	Ex. No. 39.
Statement of Mr. P. A. Kolly	... ..	Ex. No. 40.
Stock Book which contains Khilafat Committee's Resolution appointing Shaukat Ali as Honorary Secretary	Ex. No. 41.	
Khilafat Central Committee's Book	...	Ex. No. 42.
Order given by Abdul Ghani	... ..	Ex. No. 43 a.
Other papers given to him by Mahomed Ahmed	... ..	Ex. No. 43 b.
Statement of Tekchand	... ..	Ex. No. 44.

DIARY OF THE CASE.

Statement of Mahomed Khan	...	...	Ex. No. 45.
English translation of Ex. 12	....	...	Ex. No. 46.
English translation of Ex. 13	...	...	Ex. No. 47.
English translation of Ex. 14	...	...	Ex. No. 48.
English translation of Ex. 15	...	...	Ex. No. 49.
English translation of Ex. 16	...	...	Ex. No. 50.
English translation of Ex. 17	...	....	Ex. No. 51.
English translation of Ex. 19	...	...	Ex. No. 52.
English translation of Ex. 20	...	...	Ex. No. 53.
English translation of Ex. 21	...	...	Ex. No. 54.
English translation of Nissar Ahmed's speech			Ex. No. 55.
English translation of Shaukat Ali's evening speech at Naushehro	...	...	Ex. No. 56.
English translation of Ex. 34	...	...	Ex. No. 57.
Statement of Narain	...	...	Ex. No. 58.
Notes in Marahati	...	...	Ex. No. 59.
True translation of notes...	...	...	Ex. No. 60.
One book of Short hand notes	...	...	Ex. No. 61.
Statement of Sholaram	...	...	Ex. No. 62.
Notes in Marahati resolution by Mahomed Ali at Gokak	...	...	Ex. No. 63.
English translation of resolution by Mahomed Ali at Gokak	...	...	Ex. No. 64.
Statement of Vithal	...	...	Ex. No. 65.
Notes of Shaukat Ali's speech at Poona	...	...	Ex. No. 66.
Translation in English of the notes	...	...	Ex. No. 67.
Adjourned to tomorrow. Accused remanded to custody.			

(Sd). S. M. TALATI,
City Magistrate, Karachi.

27-9-21

Proceedings resumed.

Statement of Abdul Karim ... Ex. No. 68.

Statement of Smart Ex. No. 69.

Cover of Packet containing papers seized
from Mahomed Ali's possession at Waltair Ex. No. 70.

TRIAL OF ALI BROTHERS & OTHERS.

Cover of Packet containing papers seized from Mahomed Ali's possession at Waltair given to the Trying Magistrate ...	...	Ex. No. 71.
English draft by accused Mahomed Ali of Resolution passed at Gokak ...	...	Ex. No. 72.
Urdu draft of the same Resolution....	...	Ex. No. 73.
List of papers signed by Mahomedali	....	Ex. No. 74.
Statement of Hariram Pardasani ...	....	Ex. No. 75.
Statement of Nariman Dori	...	Ex. No. 76.
Two letters written by Mahomed Ali to District Magistrate Karachi in English	...	Ex. No. 77 & 78
Do do in Urdu....		Ex. No. 79.
Two telegrams written by Mahomed Ali	...	Ex. No. 80 & 81.
Examination of Accused Mahomed Ali	...	Ex. No. 82.
Examination of Accused Saifuddin Kitchlew		Ex. No. 83.
Examination of Pir Ghulam Mujadid	...	Ex. No. 84.
Adjourned to tomorrow. Accused remanded.		

(Sd). S. M. TALATI,

28-9-21. City Magistrate, Karachi.

Accused present in police custody.		
Further statement of Dr. Kitchlew	...	Ex. No. 83.
Statement of Hussain Ahmed	...	Ex. No. 85.
Statement of Bharati Krishna Tirathji	...	Ex. No. 86.
Statement of Nissar Ahmed	....	Ex. No. 87.
Statement of Shaukat Ali	...	Ex. No. 88.
Charge framed	...	Ex. No. 89.

Adjourned to 1-10-21. Accused remanded to custody.

(Sd). S. M. TALATI,

29-9-21. City Magistrate, Karachi.

Accused present in custody.		
Translation in Urdu of the charge read out to the accused	...	Ex. No. 89.
Pleas	...	Ex. No. 90 to 96.
Order of committment	...	Ex. No. 97.

(Sd). S. M. TALATI,

1-10-21. City Magistrate, Karachi.

DEPOSITION OF ZAMAN SHAH.

Ex. No. 1.

I having made S. A. state that my name is Zaman Shah, my father's name Mahomed Shah, my age about 40, my religion Mohomedan, my caste Brohi, my calling Deputy Superintendent Police, my residence Karachi.

Exam. in Chief.

To P. P.

I am complainant in this case. I filed this complaint under the orders of Government of Bombay and under the orders of the District Superintendent Police, Karachi.

The orders of the District Superintendent Police and Bombay Government are filed with the complaint. (Ex. 2 & 3). I was at the Karachi City Station on 7-7-21 when the Quetta mail arrived. Accused Nos. 1, 6 & 7 arrived by that train. These three accused persons were taken in a procession. Accused No. 7 first went to the Kanaya Shala near Tahilram's Musafarkhana. Accused No. 3 Dr. Kitchlew also put up there.

That place is close to the Pandal put up for the Conference. That Khilafat Conference was held on 8th, 9th and 10th July 1921. I attended all the sittings of the Conference.

On 8th July the proceedings commenced at 5 p. m. and lasted up to 10 p. m. On 8-7-21 Mr. Mahomed Ali accused No. 1 gave his presidential address. After the addressee, accused No. 1 said that the Subjects Committee will now be formed and that it will consist of 5 members from each province and 10 from Bombay and Sind and all the members of the Central Khilafat Committee.

Accused No. 7 is the Honorary Secretary of the Central Khilafat Committee. I had 4 men on duty at the Kanaya Shala. They reported that accused Nos. 1, 3 & 7 had put up at the Kanaya Shala during the Conference.

I received a report that the Subject Committee met between 9 and 11 a. m., on the 9th and again at 7 p. m. in the evening. These meetings were held in the Kanaya Shala.

TRIAL OF ALI BROTHERS & OTHERS.

I was present at the Conference on 9th July evening when the 6th Resolution was passed. The order of the Bombay Government (Ex 2) contained a correct translation of the 6th resolution. That resolution was read out to the audience by accused No. 1 at the conference. While introducing this resolution accused No. 1 stated that it was a very important resolution and the audience should consider it as the essence of the conference. This resolution was proposed by accused No. 2, Hussain Ahmed.

Shorthand notes of the speech of accused No. 2 were taken by Inspector Lakht Hussain and S. I. Sham Bahadur Khan.

After that accused No. 4 translated that resolution in Sindhi and spoke on it. He translated the words "unlawful to remain in the army" as "Fauj me nokri karni Haram ahe".

He also spoke on the resolution. Notes of his speech were taken by Inspector Karamchand and Sub-Inspector Abdulla.

Accused No. 3 spoke after accused No. 4. He spoke in Urdu.

Accused No 5 then spoke in support of the resolution. He also spoke in Urdu.

Shorthand notes of the speeches of accused Nos. 3 and 5 were also taken by Inspector Lakht Hussain and Sub-Inspector Sham Bahadur Khan.

Accused No. 6 addressed the audience after that. He spoke in English.

Shorthand notes of his speech were taken by Topandas and Basarmal.

After that accused No. 1 spoke a few words in concluding the debate and asked those who were in support of the resolution to stand up.

All the persons who were in the conference stood up. Accused No. 7 was also present and he was sitting on the dais. Throughout the Conference there was no other resolution for which the audience were asked to stand up for passing it.

DEPOSITION OF ZAMAN SHAH.

There were about 2000 persons present when the resolution was passed. There were also Mahomedans, Hindus and Sikhs and Pathans in the audience. There were also Moulvis present there.

The Moulvi of Amrot, Pir Asadulle Shah, Moulana Abdul Bari and others were present.

Pir Turabali Shah and other Rashti Pirs had brought their followers. Excluding Bengal, all other provinces were represented in the Conference. There were some students also, probably from Aligarh.

There was excitement among the audience when Speeches were made in support of this resolution. Representatives of newspapers were also present.

Accounts of the proceedings appeared in the "New Times" and "Daily Gazette" and "Sind Observer" published in Karach.

I have seen the Mutaftka Fatwa. I produce a copy of it (Ex 4).

It came in my hands in August 1921. I had got another copy of it before that in March. I produce it (Ex 5). I got about 2 copies in March. I got them from a Pathan in Karach in March.

The copies received in March bear the names of accused Nos. 2 and 5.

I received the copy in August from Sub-Inspector Abdul Gaddur. That copy bears the names of accused Nos. 2, 4 and 5.

No Cross Exam.

(Sd). S. M. TALATI,
City Magistrate, Karachi.

26-9-21.

TRIAL OF ALI BROTHERS & OTHERS.

Ex. No. 6.

I having made S. A. state that my name is Md. Bux, my father's name Illahibux, my age about 30, my religion Mahomedan, my caste Shiekh, my calling Deputy Collector, my residence Halla.

Exam. in Chief.

To P. P.

I was present at the evening sitting of the Khilafat Conference on 9th July 1921. Resolution Nos. 5 and 6 were placed before that meeting. A correct translation of that resolution No. 6 appears in Government order (Ex. 2).

That resolution was read out to the audience by accused No. 1 Mahomed Ali.

That resolution was proposed by accused No. 2 Hussain Ahmed after accused No. 2's speech; and No. 4 translated it in Sindhi and spoke in support of it.

Accused No. 3 Dr. Kitchlew spoke after him and accused No. 5 Nisar Ahmed spoke after him.

Accused No. 6 spoke after him. After that accused No. 1 again spoke on the resolution and he asked the audience to stand up if they wanted to signify their concurrence

All who were there stood up. I saw accused No. 7 Shaukat Ali there on the dias. He also stood up in support of the resolution. I was present at all the sittings of the Khilafat Conference.

The audience were not asked to express concurrence with any other resolution by standing up.

About 3000 persons were present when this resolution was passed. The majority were Mussalmans.

Some Ulema were also present at the conference at the time. I can't say if any of them had their followers at the conference.

The speeches in support of this resolution caused much excitement among the audience.

(Sd). S. M. TALATI,
City Magistrate, Karachi.

26-9-1921.

DEPOSITION OF KESHOWLAL

Ex. No. 7.

I having made S.A. state that my name is Keshowlal, my father's name Naraindas, my age about 30, my religion Hindu, my caste Goosai, my calling H. C. Police, my residence Karachi.

Exam. in chief.

To, P. P.

I was in Karachi in July last, at the time of the All India Khilafat Conference in Karachi. Accused 1, 3, and 7 were putting up in the Kanaya Shala.

On 8th July I was on duty in the morning at the Kanaya Shala. I was on duty from 10 a. m. on 7th till 1 p. m. on 8th.

On 8th July at 8 30 a. m. I saw accused Nos. 1 and 7 leaving the Kanaya Shala and that both came back at 11 a. m. I again saw accused Nos 1, 3 and 7 going from the Kanaya Shala.

I left at 1 p. m. and came back at 3 p. m.

I saw accused Nos. 1, 3 and 7 coming back to the Kanaya Shala at 3 p. m. and I again saw them leaving at 4-30 p. m.

I was off duty at 9 p. m. on 8th July. I was on duty at the Kanaya Shala on 9th also from 7 to 10 a. m. and I saw accused Nos. 1 and 3 going in one garry and five minutes after that accused No. 7 also left in a garry, and I saw them coming back at 9 a. m. Accused Nos. 3 and 7 came in one garry followed by accused No. 1 in another garry.

Many persons had come to the Path Shala before and after the accused.

I came back to duty at 2 p. m. At 2-15 p. m. I saw them returning to the Kanaya Shala from the Pandal.

I was on duty from 2 p. m. to 9 p. m. that day.

At 6 p. m. I saw many persons coming to the Kanaya Shala that day. Those people left at about 8-30 p. m.

I again saw all these 3 accused leaving Kanaya Shala at 8-30 p. m. or 8-45 p. m.

No Cross Examination.

26-9-21.

(Sd). S. M. TALATI,
City Magistrate, Karachi.

TRIAL OF ALI BROTHERS & OTHERS.

Ex. No. 8.

Form for recording deposition of witnesses.

I having made S. A. state that my name is Fateh Bahadur, my father's name Lachaman Parsad, my age about 30, my religion Mussalman, my caste Kayarath, my calling H. C. C. I. D., my residence Karachi.

Exam. in chief.

To the P. P. for Sind.

I was in Karachi in July last, and Nos. 1, 3 and 7, had put up at the Kanaya Shala during the All India Khilafat Conference. On 9th July I was on duty at the Kanaya Shala from 8-30 a. m. to 12 noon.

At 9-30 a. m. I saw accused Nos. 3 and 7 coming back in one garry and accused No. 1 followed them in another garry.

I saw many other delegates coming between 9-30 and 11 a. m. including accused No. 6 Bharati Krishna.

At the meeting I was able to hear the voice of accused No. 7 as he spoke loudly but the other voices were quite indistinct.

On 9th, delegates left the meeting at the Kanaya Shala after 11 a. m. I saw accused Nos. 1, 3 and 7 also leaving at 11-15 a. m. and going to the conference Pandol.

I came back on duty at 12 midnight and I saw all these three accused returning to the Kanaya Shala at 1-30 a. m.

No Cross Examination.

(Sd). S. M. TALATI,
City Magistrate, Karachi.

26-9-21.

DEPOSITION OF MD. USMAN.

Ex. No. 9.

I having made S. A. state that my name is Md. Usman, my father's name Md. Ismail, my age about 28, my religion Mahomedan, my caste Shiekh, my calling H. O. Police C. I. D., my residence Karachi.

Exam. in chief.

To P. P.

I was in Karachi in July last at the time of Khilafat Conference. Accused Nos. 1, 3 and 7 had put up at the Kanaya Shala. They had put up there during all the time of the Conference.

On the 9th July I was on duty at the Kanaya Shala from 6 a.m. to 12 noon.

On the 9th at 8-30 a. m., I saw accused Nos. 1, 3 and 7 going out.

Accused Nos. 1 and 3 left in one gharry and accused No. 7 left in another carriage. I saw them coming back again at 9-30 a.m. and then accused Nos. 3 and 7 were in one gharry and accused No. 1 was in another gharry.

That morning I saw many other persons coming to the Kanaya Shala. Accused No. 6 Venkatraman was also among them. Those others left between 11-15 and 11-30 a. m. The meeting lasted upto 11 a. m. I could not hear what was said at the Subjects Committee meeting, but I only heard the voice of accused No. 7. I saw accused Nos. 1, 3 and 7 also leaving Kanaya Shala at 11-15 a. m.

I came to duty again at 6 p. m. and at 8-30 p. m., I saw accused Nos. 1, 3 and 7 and others leaving the Kanaya Shala. No one else left at 8-30 p. m. except these three accused, but a little after the accused had left, the others also left the Kanaya Shala. I had not seen them coming at the Kanaya Shala.

I heard the voice of accused No. 7 addressing the meeting.

No cross examination.

Sd. S. M. TALATI,
C. M. Karachi.

26-9-21.

TRIAL OF ALI BROTHERS & OTHERS.

Ex. No. 10.

I having made S. A. state that my name is Abdul Jaffur, my father's name Zardakhan, my age about 28, my religion, Mohomedan my caste Pathan, my calling S. I., C. I. D., my residence Karachi.

Exam. in chief.

To P. P.

On 9th July I was at the Kanaya Shala in the morning. H. C. Fateh Bahadur and H. C. Usman Gani were also on duty there.

They told me that a meeting of the Subject Committee was being held there. I heard the voice of accused No. 7.

I was there from 10 to 11-15 a. m.

The meeting dispersed at 11-45 a. m.

I went there again at 7-30 or 8 p. m. H. C. Keshovlat and Usman Gani were on duty there at the time. They said people had collected at Kanaya Shala and a meeting was being held there.

I have seen the Mutafiga Fatwa. I got a copy of it in August 1921 which I handed to Mr. Zamanshab. It is (Ex. 4). I got it from a Pathan and he told me that I was serving in the police and I had better read the Fatwa of the Ulema. I read it and gave it to Mr. Zamanshab, Deputy Superintendent. I got this book in Karachi.

No Cross examination.

(Sd). S. M. TALATI,

26-9-21.

City Magistrate, Karachi.

DEPOSITION OF LAKHAT HUSSIEN.

Ex. No. 11.

I having made S. A. state that my name is Lakhat Hussien, my father's name Tasduk Hussien, my age about 40, my religion Sayed, my calling Inspector C. I. D., my residence Allahabad.

Exam. in chief.

To P. P.

I was present at the Khilafat Conference in Karachi in July as reporter of the C. I. D. I am familiar with taking down speeches in short hand. I was present at the sitting of the Conference on 8th July. On that day accused No. 1 was President and he gave his presidential speech. After his speech accused No. 1 spoke on the subjects Committee. I took down notes in short hand.

Accused No. 1 spoke on this in Urdu. I have transcribed in Urdu correctly the speech of accused No. 1 on the Subjects Committee. Accused No. 1 actually said what I have written here. I produce it (Ex. 12).

I was present on the evening of the 9th July when Resolution No. 6 was put before the Conference.

The Resolution No. 6 was read out by Accused No. 1. He made a few brief remarks putting it in 2 or 3 lines. I recorded the introductory remarks and the Resolution in shorthand and accused No. 1 spoke in Urdu. I have correctly transcribed my shorthand notes of these in Urdu. Accused No. 1 actually said what I have written there. I produce it (Ex. 13).

After him accused No. 2 spoke on the Resolution. He spoke in Urdu and I took it down in shorthand. I have prepared a true transcript of my notes. I produce it (Ex. 14). He actually said what I have recorded.

After that accused No. 4 spoke in Sindhi and Dr. Kitchlew accused No. 3 spoke after that in Urdu. I took down his Urdu Speech in shorthand. I have brought a true transcript of my notes (Ex. 15). Accused No. 3 actually said what I have recorded.

TRIAL OF ALI BROTHERS & OTHERS.

Accused No. 5 spoke after him in Urdu. I took down his Urdu Speech in shorthand. I prepared a true transcript of my notes. (Ex. 16), is the same. Accused No. 5 actually said what I have recorded.

After him accused No. 6 spoke in English. After that accused No. 1 made concluding remarks in Urdu.

I took it down also in shorthand. I have prepared a true transcript of my shorthand (Ex 17). Accused No. 1 actually said what I have written there.

I have preserved my shorthand notes and I have brought them there.

(Sd). S M. TALATI,

26-9-21.

City Magistrate, Karachi.

Ex. No. 18.

I having made S. A. state that my name is Shah Bahadur Khan, my fathers' name is Khan Bahadur, my age is about 35 years, my religion Musalman, my caste Pathan, my calling Sub-Inspector C. I. D., my residence Allahabad.

Exam. in chief.

To P. P.

I attended the meetings of the Khilafat Conference in Karachi in July 1921 as shorthand reporter of the Police. I am accustomed to take down Urdu Speeches in Shorthand. I was present on the 8th July at the Conference.

Accused No. 1 made a speech first. I did not take down his speech, but it was taken down by Lakhat Hussein .

I was present on the 9th evening.

DEPOSITION OF SHAH BAHADUR.

Accused No 1 first read out the Resolution No. 6. I took it down in shorthand. I also took down in shorthand his introductory remarks. I have made a correct transcript of the remarks in Urdu. Accused No. 1 actually said what I have recorded. I produce it (Ex. No. 19).

Accused No. 2 then proposed Resolution No. 6. He spoke in Urdu and I took it down in shorthand. I have prepared a true transcript of my Urdu shorthand. Accused No. 2 actually said what I have recorded. I produce it (Ex. No. 20).

Dr. Kitchlew accused No. 3 spoke after that. There was a speech in Sindhi and also in English on this resolution.

I took down accused No. 3's speech which was in Urdu. I have prepared a true transcript of my Urdu shorthand. Accused No. 3 actually said what I have recorded. I produce it (Ex. No. 21).

Accused No. 5 spoke after accused No. 3. He also spoke in Urdu. I took down his speech in shorthand, I prepared a true transcript of it in Urdu. Accused No. 5 actually said what I have recorded. I produce it (Ex. No. 22).

After the speeches were finished, accused No. 1 put the Resolution before the Conference. He spoke in Urdu. I did not take down short hand notes of what he said. They were taken down by Lakhat Hussein. I have brought my shorthand notes here.

No cross Examination.

Sd. S. M. TALATI,

City Magistrate, Karachi.

26-021.

TRIAL OF ALI BROTHERS & OTHERS.

Ex. No. 23.

I having made an oath state that my name is W. R. Burns, my age about 50, my religion Christian, my caste Presbyterian, my calling Journalist, my residence Karachi.

Exam. in chief.

To P. P.

I am the Assistant Editor of the Daily Gazette. Our reporter Mr. Tekchand Mirchandani has attended the Khilafat Conference on 9th July 1921. He handed over to me on the evening of 9th July the notes he had taken at the Conference. From those notes, I published an account of the proceedings of 9th July in my paper. I produce a copy of the Daily Gazette of 11th July which contains an account of the proceedings of 9th July. Ex. 24, is the article on page 4 of the paper, referred to as Resolution 7.

I produce the notes prepared by Mr. Tekchand my reporter, in 7 pages. One of the pages is missing (Ex. 25).

I cant say what has become of the missing page. The report published in my paper correctly represents what is stated in the notes of Mr. Tekchand.

No cross Examination.

Sd. S. M. TALATI,

City Magistrate, Karachi.

26-9-1921.

DEPOSITION OF KARAMCHAND.

Exhibit No. 26.

I having made solemn affirmation state that, my name is Karamchand, my father's name Ramlal, my age about 32, my religion Hindu, my caste Khatri, my calling Inspector of police C.I.D. my residence Karachi.

Exam. in chief.

To, P. P.

I attended the sittings of the Khilafat Conference in Karachi in July last. On 8th July accused No. 1 gave the presidential address. After finishing the address he said that the Subjects Committee will be formed tomorrow morning. He said that in the Subjects Committee there will be all the members of the Central Khilafat Committee and five members from each province except Sind which will have ten.

I was present on the evening of 9th July when the 6th Resolution was passed. That Resolution is correctly translated as laid down in Government Order (Fx. 2).

That Resolution was read out to the meeting by accused No. 1.

Accused No. 4 translated this Resolution in Sindhi. He had a paper on which the Resolution was written and he was translating it.

Accused No. 4 also spoke on this Resolution in Sindhi. I have taken down notes of it.

All the other accused spoke on the Resolution except accused No. 7.

Accused No. 1 put the resolution to vote before the meeting. He asked all those who agreed to it, to stand up and they all stood up.

Accused No. 7 was also there and he also stood up. He was sitting on the dais.

On the 10th of July, I left for Naushehro Feroz by evening Mail. Accused Nos. 3 and 7 travelled by the same train and accused No. 7 got down at Naushehro Feroz and accused No. 3 went to Sukkur.

TRIAL OF ALI BROTHERS & OTHERS.

On 11th July there was a conference at Naushehro Feroz. Accused No. 7 spoke at that Conference, once in the morning and again in the evening. He spoke in Urdu. His speech was translated in Sindhi sentence by sentence in the morning by Sheikh Abdul Majid and in the evening Dr. Choithram gave the substance of his speech in Sindhi.

I took notes of accused No. 7th's speech. I have got my notes of the evening speech taken down in Urdu. I am well acquainted with Urdu. I produce the notes and a fair copy of it (Ex. 27).

No cross Examination.

26-9-1921.

Sd. S. M. TALATI,
City Magistrate, Karachi.

Form of recording deposition of witnesses.

Ex. No. 28.

I having made S. A. state that my name is V. E. Gwoyer Col., my age about 42, my religion Christian, my caste Protestant of England, my calling Army, my residence Karachi.

Exam. in chief.

I produce a form on which soldiers are ordinarily enlisted in the Army (Ex. 29). I also produce the enrolment form on which soldiers were enlisted during the period of war (Ex. 30).

All competent soldiers of the Indian Army are enlisted under one of these forms. Every soldier of the Indian Army must engage to serve for a definite period. Men enlisting under (Ex. 30) had to serve during the period of war and for 6 months after. The date of termination of the war is fixed as 1st September, 21.

A soldier enlisting under Ex. 29 has to serve for at least 4 years. A soldier enlisting under Ex. 29 can sign for 4, 5, or 10 years. A soldier is not entitled to leave service before the period for which he signs for.

DEPOSITION OF COL. GWOYER

Even after the period of enlistment he can be retained in service if the two conditions laid down in rule 14 are fulfilled. Para 2 of cl. 14 applies only to reserve. When a regiment falls below its established strength, the practice is to send out a recruiting party from the same regiment. The recruiting party consists of soldiers of the regiment. Their duty is to induce and to enlist recruits in the Army. Regiments are kept up to strength almost entirely by this method.

It would not be possible to keep a regiment up to strength if the soldiers did not induce recruits to join the Army. I am the Colonel of the staff of general staff of the Western Command. I have received leaflets from regiments of the Western Command asking soldiers not to serve in the Army. I produce three leaflets (Ex. 21, a, b and c). I produce them in the same state in which I got them. I received others also in addition to these three. They have been received by me from seven regiments.

No Cross Examination.

(Sd). S. M. TALATI,

27-9-21.

City Magistrate, Karachi.

Exhibit No. 32.

I having made S. A. state that, my name is Jairam, my father's name Indur, my age about 45, my religion Hindu, my caste Ahir, my calling Subedar Major, 98 Infantry, my residence Baroda.

Exam. in chief.

To, P. P.

The post received for the ranks of my regiment is checked by me. This procedure is introduced after the out-break of the War. On 2nd or 3rd of August I got twelve envelopes of a similar nature and I opened one of them and found a proclamation similar to the one I now see which is Ex. No. 31 b.

I did not open the other envelopes. I at once took all the twelve envelopes to my Commanding Officer. He read one of them and put them all in his pocket.

They were addressed to Mussalman officers of my regiment.

No Cross Examination.

(Sd). S. M. TALATI,

27-9-21.

City Magistrate, Karachi.

TRIAL OF ALI BROTHERS & OTHERS.

Ex. No. 33.

I having made S. A. state that my name is Azizudin, my father's name Sharafdin, my age about 35, my religion Mohamedan, my caste Jat, my calling Subedar 15th Infantry, my residence Chainan.

Exam. in chief.

To P. P.

The Subedar Major of my regiment proceeded on leave for two months from 1st July 1921. I acted for him as Subedar Major.

The post of my Indian ranks was received by me during those two months.

Ten leaflets like the one shown to me (Ex. 31 a.) were received in the post of my regiment.

On or about 20th July 1921 I got two small covers with leaflets, I got eight more in or about the last week of July. I have got one such leaflet with me. I produce it with the original envelope (Ex. 34). I handed over all the envelopes to the Commanding Officer.

These ten envelopes were all addressed to Mahomedan Officers of the regiment, two of whom had left the regiment since on pension.

No Cross Examination.

Sd. S. M. TALATI,

27-9-21.

City Magistrate, Karachi.

Ex. No. 35.

I having made S. A. state that my name is Mahomed Hussein, my father's name is Darvesh Ali, my age about 45 years, my religion Musalman, my caste Hazara, my calling Subedar 106 Pioneers, my residence Quetta.

Exam. in chief.

To P. P.

For some time my Company was attached to 2/12 Pioneers at Lahore.

At that time 106 Pioneers Regiment was in Mesopotamia. My Company was posted back to the Depot at Quetta in September last year.

DEPOSITION OF TIKAMDAS.

In the last week of August 1921 I got a leaflet similar to (Ex. 31 a) at Quetta. I produce it (Ex. No. 36) I got it about a month ago.

A week after that I was on duty when I saw 4 or 5 covers like this in the post. One was addressed to a Jamadar who was in the Regiment. The others were addressed to me who were demobilised. The Jamadar read it and gave it to me. The other four were taken to the office and handed over to the Subedar Major the C. O. The other envelopes also contained similar leaflet.

No Cross Examination.

(Sd). S. M. TALATI,

27-9-21.

City Magistrate, Karachi.

Ex. No. 37.

I having made S. A. state that my name is Tikamdas, my father's name Khemchand, my age about 27, my religion Hindu, my caste Lohano, my calling Journalist, my residence Karachi.

Exam. in chief.

To P. P.

I am Editor of the New Times. Our reporters Messrs. Motwani and Bardasani attended the meetings of the Khilafat Conference in July last.

On the evening of 9th July Mr. Bardasani was present at the Conference. He gave me a report of the proceedings that evening. I published a report of the proceedings from his notes in my issue of 11th July 1921.

I produce a copy of New Times of 11th July. The report of the proceedings appears at page 4 and 5 (Ex. 38).

On 18th July I again published an authentic report of the resolutions passed at the Conference.

I produce a copy of that issue and on page 6 appears the 7th resolution (Ex. 39).

TRIAL OF ALI BROTHERS & OTHERS.

I was told that the translation of the resolutions appearing in my paper on 11th July was incorrect, and hence I requested Mr. Mahomed Khan to send me a correct translation of all the resolutions.

He did so, and I published them in my issue of 18th July. The translation of the resolution appearing in the issue of the 12th July might also be incorrect. Mr. Mahomed Khan is the Secretary of the Sind Khilafat Conference.

The notes taken by my reporters of the proceedings of 9th July have not been preserved nor are any other notes preserved for more than a month.

No Cross Examination.

(Sd). S. M. TALATI,
City Magistrate, Karachi.

27-9-21.

Ex. No. 40.

I having made S. A. state that my name is P. A. Kelly, my age about 41, my religion Christian, my calling Deputy Commissioner Police, my residence Bombay.

Exam. in chief.

To P. P.

I received a search warrant for searching the office of the Central Khilafat Committee at Bombay. I went to the office on 20th September at 2 p. m. I found Mr. Abdul Ghani Superintendent of the office of the Central Khilafat Committee. In accordance with the warrant I asked him if he had any copies of the *Mutafiqua Fatwa* in the office. He said he had not any in the office. I asked him if he had received any and he said he had got some. I knew that they must have got one copy of it at least as it was incorporated in the pamphlet issued by the Central Khilafat Office.

That pamphlet was published about July or August 1921. It was in latter part of July or in August. I asked Mr. Abdul Ghani for that copy of the *Fatwa* but he said he had not got it back from the Press.

DEPOSITION OF P. A. KELLY.

I asked Mr. Abdul Ghani if he had any record in the office about the copies of Fatwa received and he produced the record. I produce the book that he produced which he described as stock register of Khilafat literature (Ex. 41).

Mr. Abdul Ghani pointed out the entries about the Mutafigua Fatwa. It shows that in February 1921, 240 copies of Mutafigua Fatwa were received by them.

According to this book they were distributed in the months of February, March, April and May.

I asked Mr. Abdul Ghani for documentary proof that Mr. Shaukat Ali was Secretary of the Central Khilafat Committee. He produced the minute book in which Mr. Shaukat Ali was appointed Secretary of the Conference Khilafat Committee.

I attached and produce those pages of the book. The resolution is (Ex 42). I asked for the resolution appointing Dr. Kitchlew as member of the Central Khilafat Committee. He said that book had been taken away by Mr. Mujam Ali to Delhi.

I then sent an officer to the press to find out if the copy of the Mutafigua Fatwa sent by Central Khilafat Committee was there or not. He came back and said it was there. I then sent my officer to the printer to produce these papers before me and he did so in my office. The printer's name was Mahomed Ahmed.

I produce the documents given to me by Mahomed Ahmed Ex. 43 a and b.

I arrested Shaukat Ali on the morning of 16th September in the Khilafat Committee's Office.

No Cross Examination.

(Sd). S. M. TALATI,
City Magistrate, Karachi.

27-9-21.

TRIAL OF ALI BROTHERS & OTHERS.

Ex. No. 44.

I having made S. A. state that, my name is Teekchand, my father's name Hemandas, my age about 29, my religion Hindu, my caste Amil, my calling Teacher New High School, my residence Karachi.

Exam. in chief.

To, P. P.

(Ex. 25) are my notes. They are notes of the proceedings of the Khilafat Conference. They are not the original notes I took at the Conference nor are they a copy of the original notes. They were partly prepared from the original notes and partly taken from the New Times.

I prepared them on 10th night and 11th morning when I supplied them to the Daily Gazette. I considered them as a fairly accurate report of the proceedings. (Witness Volunteers) excepting in one particular i.e. about the resolutions. The resolutions were based upon what was printed in the New Times. I was not sure whom I supplied these resolutions as to whether they were correct or not. My belief about the accuracy of these resolutions was neither one way nor the other.

No Cross Examination.

27-9-21.

Sd. S. M. TALATI,
City Magistrate, Karachi.

Ex. No. 45.

I having made S. A. state that, my name is Mahomed Shah, my father's name is Mowla Shah, my age about 43 years, my religion Musalman, my caste Sayed, my calling D. S. P. Thar Parkar, my residence Mirpur Khas.

Exam. in chief

To, P. P.

I have prepared a correct translation of the Urdu of Inspector Lakhat Hussain (Ex. 12) as regards the remarks of Mr. Mahomed Ali on the Subjects Committee. I produce it (Ex. No. 46). I have also prepared a true translation of Ex. 13 as regards the remarks of Mr. Mahomed Ali in the introductory Resolution No. 6 and I produce it (Ex. No. 47).

DEPOSITION OF MAHOMEDSHAH

I have also prepared a true translation of (Ex. 14) which is the speech of accused No. 2 on Resolution No. 6. I produce it (Ex. No. 48).

I have also prepared a true translation of (Ex. No. 15) i.e. the speech of accused No. 3 on this resolution. I produce it (Ex. No. 49).

I have prepared a true translation of (Ex. No. 16) of the speech of accused No. 5 and I produce it (Ex. No. 50).

I have also prepared a true translation of (Ex. No. 17) the concluding remarks of accused No. 1 on the Resolution No. 6. I produce it (Ex. No. 51).

I have made true translation of the notes of S. I. Shah Bahadur about the 6th Resolution and accused No. 1's introductory remarks i. e. of (Ex. 19). I produce it (Ex. No. 52).

I have prepared a true translation of (Ex. No. 20) the speech of accused No. 2. I produce it (Ex. No. 53).

I have prepared a true translation of (Ex. No. 21) speech of accused No. 3 and I produce it (Ex. No. 54).

I have also prepared a true translation of (Ex. No. 22) speech of accused No. 5 and I produce it (Ex. No. 55).

I have also prepared a true translation of (Ex. No. 27) evening speech of accused No. 7 at Naushero. I produce it (Ex. No. 56).

I have prepared a true translation of the booklet now shown to me (Ex. No. 34). I produce it, (Ex. No. 57).

No Cross Examination.

27-2-21.

Sd. S. M. TALATI,
City Magistrate, Karachi.

TRIAL OF ADI BROTHERS & OTHERS.

Form of recording deposition of witnesses.

Exhibit. No. 58.

I having made S. A. state that my name is Narayan, my father's name Ganesh Joshi, my age about 38, my religion Hindu, my caste Brahmin, my calling Inspector Police C. I. D. My residence Poona.

Exam. in Chief.

To, the P. P. for Sind.

I was present at the Belgaum District Khilafat Conference. It was held at Gokak on 19th June 1921. There was only one resolution before that conference. Accused No. 1 proposed that resolution. It was read out by accused No. 1 in Urdu and English. I can write Marathi shorthand, I took down the resolution in Marathi shorthand and English longhand. I took down accused No. 1's introductory remarks in Marathi shorthand. I have made a true translation in longhand of shorthand notes (Ex. 59). I also prepared a true translation of Marathi into English of (Ex. 59). I produce it (Ex. 60) I produce my longhand English notes of the resolution proposed by accused No. 1 (Ex. 61). It is in the same book in which the shorthand notes are taken down. Accused-No. 2 seconded that resolution. About 1,500 persons were present at that Conference, of which fifty per cent were Hindus and fifty per cent Mussalmans.

No Cross Exam.

(Sd). S. M. TALATI,
City Magistrate, Karachi.

27-9-21.

DEPOSITION OF DHOLARAM.

Ex. No. 62.

I having made S. A. state that my name is Dholaram, my father's name is Punamchand, my age about 37, my religion Hindu my caste Marwari, my calling S. I. Police C. I. D., my residence Poona.

Exam. in chief.

I was present at the Belgaum District Khilafat Conference held at Gokak on 19th June 1921.

There was only one resolution before that Conference. The resolution was read out to the audience by accused No. 1 in Urdu and English.

I took down the resolution. I know Marathi shorthand. I took down the resolution in Marathi shorthand.

I have prepared a true transcript in long hand of my shorthand notes. I produce it (Ex. 63). A correct translation in English also appears on the same paper. I produce it (No. 64).

Accused No. 1 proposed this resolution at the Conference and accused No. 3 seconded it. About 1,500 persons were present there.

No Cross Examination.

(Sd). S. M. TALATI,
City Magistrate, Karachi.

27-9-21.

Ex. No. 65.

I having made Solemn Affirmation state that my name is Vithal, my father's name is Ramchand Mazumdar, my age about 35, my religion Hindu, my caste Brahmin, my calling S. I., C. I. D., my residence Poona.

Exam. in chief.

To, P. P.

On 17th June 1921 accused Nos. 1, 3 and 7 came to Poona.

That evening there was a meeting at the Gandhi Maidan and I attended it.

TRIAL OF ALL BROTHERS & OTHERS.

I write Marathi and English shorthand. Accused No. 7 made a speech at that meeting. It was a short speech. At the end of the meeting I took shorthand notes of this speech in Marathi and English words were taken down in English.

I made a true transcript in long hand of my shorthand notes. I did it half an hour after the meeting. I produce it (Ex. 66). I made a true translation in English of (Ex. 66). I produce it (Ex. 67).

There are many Indian troops stationed at Poona. Between three and four thousand persons were present at the meeting. Nearly fifty per cent were Mahomedans. I cant say if any soldiers were present there. I have brought today my short hand notes also for inspection if required.

No cross Examination.

Sd. S. M. TALATI,

27-9-1921.

City Magistrate, Karachi.

Ex. No. 68.

* I having made S. A. state that my name is Abdul Karim, my father's name Gyasudin, my age about 36, my religion Mohamedau, my caste Sayad, my calling Inspector Police C. I. D., my residence Madras.

Exam. in chief.

To, P. P.

I was with the D. I. G. Madras when accused No. 1 was arrested. The arrest took place at Waltair just outside the station when accused No. 1 was going to address a meeting. That was on 14th instant. Accused No. 1 was immediately taken to the D. M. who remanded him. Before accused No. 1 was removed to the jail, he asked that his kit might be sent to the jail with his servant. Accused No. 1's servant was in the Railway compartment with the

DEPOSITION OF ABDUL KARIM.

kit. It was the compartment of the train in which he had arrived with Mr. Gandhi. The train was then at the platform, as it usually stops there for half an hour. The servant brought the kit from the compartment to where the District Magistrate was sitting at the Railway Police Station, near the Railway. He was asked to show all the papers that were in accused No. 1's kit. The servant showed all the papers. I drew the attention of the District Magistrate to several papers including two papers referring to the resolution at the Belgaum meeting. The servant was asked to put all the papers in a bag and was asked to carry it to the jail where accused No. 1 was taken.

The District Magistrate asked the Jail Superintendent to detain all papers until he had issued further orders. He was asked to seize all the papers in the presence of accused No. 1 and to prepare a list of them and he was asked to send those papers to the District Magistrate Karachi.

*Note:—*This witness will be further examined after the evidence is recorded of District Magistrate, Karachi.

(Sd). S. M. TALATI,

28-9-21.

City Magistrate, Karachi.

Recalled and on S. A.

To, P. P.

(Ex. 72 & 73) Copies of Gokak resolution are the same that were found in the kit of accused No. 1 at Waltair and which were produced by his servant.

No Cross examination.

(Sd). S. M. TALATI,

28-9-21.

City Magistrate, Karachi.

TRIAL OF ALI BROTHERS & OTHERS.

Ex. No. 69.

I having made S. A. state that my name is W. W. Smart, my age about 45, my religion Christian, my caste Church of England, my calling District Magistrate, my residence Karachi.

Exam. in chief.

To P. P.

The police officer who returned to me my warrant for the arrest of accused No. 1 gave me a sealed packet which he said was sealed in the jail at Waltair.

The seals on the packet were intact when I received it. I produce it (Ex. 70). I had the packet opened in my presence and compared the documents with the list received from Madras signed by accused No. 1.

When accused No. 1 appeared before me he asked me to send certain of these documents to his wife. He admitted his signature on the list and I have made a note of it on the record.

I despatched some of the papers to Mrs. Mahomed Ali according to the address as shown in a list and certain other papers according to list were sent to C. I. D. Simla and some papers detained in this case according to a third list and those papers were handed over by me personally to the Trying Magistrate. They were handed over by me in a sealed cover. The cover now shown to me is the same (Ex. 71). The contents of the envelope are intact with the lists

In these papers there is an English copy of the Gokak resolution with Urdu writing on the back of it and on another paper attached to it. I produce them (Exs. 72 and 73).

There is a list of these documents signed by accused No. 1 and accused No. 1 admitted his signature on it. I produce it (Ex. 74).

No Cross Examination.

(Sd). S. M. TALATI,
City Magistrate, Karachi.

28-9-21

DEPOSITION OF HARIRAM.

Ex. No. 75.

I having made S. A. state that my name is Hariram, my father's name Shewaram, my age about 21, my religion Hindu, my caste Lohana, my calling Reporter New Times, my residence Karachi.

Exam. in chief.

To P. P.

I attended the proceedings of the All India Khilafat Conference on the evening of 9th July 1921. I took notes of the proceedings and I gave these notes to the Editor Mr. Jeswani. The notes were taken in English longhand. I did not believe my notes to be exactly accurate as I do not know Urdu properly. I made the notes of the Urdu as far as I was able to understand it. My mother tongue is Sindhi.

There was only one speech in Sindhi and I took it only in 2 or 3 lines and it was accurate. I understood accurately the resolutions that were translated in Sindhi.

I took down the resolutions when they were first read out in Urdu. I did not compare them again when they were translated in Sindhi.

I understand English. I took accurate summaries of speeches made in English. I only touched up my notes to see that the sentences were in order before handing them to Mr. Jeswani.

No Cross Examination.

(Sd). S. M. TALATI,

29-9-21.

City Magistrate, Karachi.

TRIAL OF ALI BROTHERS & OTHERS.

Ex. No. 76.

I having made S. A. state that my name is Nariman, my father's name Hurmosji, my age about 29, my religion Parsi, my caste Zoroastrian, my calling Deputy Jailor, my residence Karachi.

Exam. in chief.

To P. P.

Accused No. 1 has been kept in a separate room in the jail. Accused No. 1 has written some letters to the District Magistrate, Karachi. They were written in my presence. I produce two letters written by accused No. 1. to the District Magistrate, Karachi in my presence (Exs. 77 and 78).

There is an Urdu letter which was also written in my presence. I produce it (Ex. 79).

I also produce two telegrams written in my presence (Exs 80 and 81). Copies of these telegrams have been despatched. I have initialed all these documents.

No Cross Examination.

(Sd) S. M. TALATI,

28-9-21.

City Magistrate, Karachi.

Note.

The P. P. says he has other witnesses present whom he does not think it necessary to examine in this Court but these and other witnesses coming from outside will be examined in the Court of Sessions. He closes his case now.

(Sd) S. M. TALATI,

28-9-21.

City Magistrate, Karachi.

MAHOMED ALI'S STATEMENT.

IN THE COURT OF THE CITY MAGISTRATE KARACHI.

Case No. of General Calender for 1921.

The King Emperor

Versus.

Mahomed Ali and Others.

Examination of the accused No. 1 Mahomed Ali.

Q. What have you to say about this case ?

A. As a Non Co-operator I have taken no part in the proceedings before this Court except to endeavour to understand the case as it was being unfolded from day to day. I allowed whatever evidence was given to move on oil casters without attempting to make any reference to the relevancy or admissibility of the evidence, according to your own canons of evidence. I did not intervene in the proceedings with my examination of the witnesses and permitted my friend the counsel for the Crown to discharge that function also for me whenever he could not get an answer entirely to his satisfaction. The only part that as N C. O's, with this Government we have allowed ourselves to take in the proceedings in which we are brought to Court is to submit a statement of facts not with a view to defend ourselves, but to explain such things as might cause any confusion to any one imperfectly acquainted with those facts. So far as the present case is concerned I had no necessity whatever of making this statement except perhaps with a view to cut short the circumambulations of a number of needless witnesses who were brought in to prove the obvious, but who may have succeeded only in making it obscure. I came to Karachi with my brother and others. I certainly put up at the Kanya Shala with a score of other people and when I was there, thousands of persons came in and went out mostly during the day and some times also at night to the great inconvenience of my brother and myself. But one must put up with these things in preparation for the heaven of rest in which I am now insured. Since it was not a prison, I frankly admit I

TRIAL OF ALI BROTHERS & OTHERS.

went out of the Kanya Shala and also returned to it sometimes in the company of my brother, oftener without him and seldom in the company of my friend Dr. Kitchlew who was evidently busy in settling some provincial and local affairs of his own. I will only say that I never came back at 1.30 a.m. as one poor witness has said perhaps because his duty began at 12 midnight and he had to show something for it. At that quiet hour I happened to be conspiring with my brother—conspiring in the literal sense when he was breathing heavily not to say snoring—and I must have been doing the same, though perhaps not in entire agreement which is necessary for the purposes of Sec. 120-B of I. P. C.

Whatever conspiracy we were engaged in was generally carried on in broad day light. I admit that I presided over the last Khilafat Conference held at Karachi. That I drafted a resolution with regard to the possible reopening of British hostilities against the Angora Government, as I had done at Gokak in the Belgaum District.

I admit I read out that resolution to the Conference and introduced the proposer whom I rejoice to see as my fellow prisoner, my revered master Maulana Husain Ahmed Sahib Mahajir Madani i. e. one who has emigrated to the last resting place of our Revered Prophet, on whom be Peace and God's benedictions.

I also made certain concluding remarks before winding up the proceedings in connection with that resolution, and I asked those who were in support of that resolution which was really a solemn covenant, to stand up and bear witness to their support of it. But it was not true as witness after witness has lied that ~~this~~ this was the only resolution which was passed by the supporters standing up. At least 2 other resolutions were passed in a similar manner and reported in the news papers of the day. I cannot think why this purposeless lie was told unless it be to maintain the sacred tradition of the Crown prosecutions in this country.

MAHOMED ALI'S STATEMENT.

It seems to me that unless Government has been made deliberately to misunderstand the drift of that and the similar resolution at Gokak, it is the aim of Government itself to put false stress upon the army part of the resolution as its justification for betraying once more the word it had given through the mouth of the Viceroy regarding our prosecutions. But that is its own concern and I have little to do with it beyond expressing my gratification that for once it has come out into the open and has challenged Islam in India to do what it can in defence of the faith.

It was clear to every body at the time of the Gokak and the Karachi Conferences that it was only a matter of touch and go with regard to the reopening of Hostilities by the British against the defenders of Islam and its Khilafat whom the British Government had done every thing in its power to destroy and to get destroyed in characteristic fashion through third parties.

Indian Musalmans who had given warning after warning to this Government were fast losing patience and we feared that the peace of India might be disturbed in vain attempts by the more ardent if not the more impetuous among other co-religionists in this country to compel the Government to respect their religious obligations and save the Khilafat.

We realized our responsibilities to God and Man and diverted the wandering attention of excited Musalmans into a faithful channel. We warned Government of two things. First, of the commencement of civil disobedience in concert with the Congress and Second, in December next at the forth-coming Sessions of the Indian National Congress of the declaration of Indian freedom and establishment of a Republic in India.

These two were to be contingent on the re-opening of hostilities by the British whether secretly or openly whether directly or through the Greeks against the remnant of the Temporal power of Islam. Every news-paper in the country co-operator or non-cooperator discussed the question of the Indian Republic looming in the distance but I do not know if any one discussed in the public the question of the In-

TRIAL OF ALI BROTHERS & OTHERS.

dian Army which as is clear from the wording of both the resolutions was only incidentally involved. Five hundred of the most distinguished Ulema of the Mussalmans in India had several months previously issued a most clear and unambiguous religious pronouncement with regard to non-co-operation including questions of membership of the Legislative Councils, practice at the Bar and education in Government aided Schools, titles and Honorary offices and of course service under Government whether military or civilian.

If it was said that the Karachi and Gokak Conferences were held mainly to ask these poor title holders who had purchased their titles by the sale of much honour and hugged them to their bosoms, it would have been hardly more ridiculous than the belated attempt to discover a conspiracy to tamper with the loyalty of our loyal troops, I say hardly more ridiculous, for, whereas, I despair of these title holders, I have every hope from our loyal soldiers.

Government have not spared them the humiliation of paying them a compliment even in its last *communiqué*, regarding our intended prosecution and the extent to which the compliment is well deserved is also the extent of demoralization wrought in a religious people by an unreligious Government. And if that compliment has been truly paid I make the abject confession that it is our Karma when our misdeeds and our neglect of our poor brothers in the army is coming home to chastise us in the hour of our need.

But we cannot neglect our hunger stricken, unsophisticated brothers any longer, and although I was absolutely ignorant of the existence of the leaflets sent to Mussalmans in the army called officers—only by way of euphemism—I am glad that the association of the Ulema is at long last carrying the message of God to the Indian Army. I may correct myself here as I am informed the *Imiat-ul-Ulema* denies having issued these leaflets to the Indian Army but I trust they will soon covert the forgery into a fact.

(Note).—Accused made this correction after one of his friends had gone up to him and told him something.

Sd. S. M. TALATI,
City Magistrate, Karachi.

MAHOMED ALI'S STATEMENT

In 1858 when there had been a Mutiny in this country involving the Indian army and the main issue was a religious one, Queen Victoria who assumed the reins of administration for the first time, issued a proclamation in order to pacify and reassure the people.

There is a curious little incident worth mentioning about the proclamation. Amongst the titles of the ruling Sovereigns of England is the significant title "Defender of the Faith" and the prime minister of those days, perhaps an adroit as the prime minister of these days, was in hopes that in the Indian translation this significant title would appear as "Protectress of Religion" generally. But he was told by experts in vernacular that it was just the title to convey to the Indian mind the idea of the special Head and Champion of a creed antagonistic to the creeds of the country, so Lord Derby was inclined to omit it but when he sought the opinion of the Queen herself she resolutely refused and at the Queen's own suggestion Lord Derby himself re-drafted the proclamation and the very first para therein relating to the obligations of the Queen towards the people of India which she says "By the Blessings of Almighty God we shall faithfully and conscientiously fulfill relates to our religions and runs as follows":—

"Firmly relying ourselves on the truth of Christianity and acknowledging with gratitude the solace of religion we disclaim alike the right and the desire to impose our convictions on any of our subjects". And yet for two and half days, my friend the Public Prosecutor has been trying to impose convictions, I do not know whose, but certainly not ours, upon six good Mussalmans and one very good Hindu.

The proclamation adds "We declare it to be our Royal Will and Pleasure that none be in any wise favoured, none molested or disquieted by reason of their religion, faith or observances. But that all shall alike enjoy the equal and impartial protection of the law", which I hope we are going to do.

TRIAL OF ALI BROTHERS & OTHERS.

It goes on to say "And we do strictly charge and enjoin all those who may be in authority under us that they abstain from all interference with the religious belief or worship of any of our subjects on pain of our highest displeasure".

The first authority mentioned in the proclamation is 'the Governor General himself and I understand it is with his concurrence that we have been molested and disquieted by reason of our religious faith; and to other convictions now sought to be imposed upon us will be added perhaps several convictions under the Indian Penal Code.

The last sentence of this proclamation was drafted by the Queen herself. Referring to the people She says "In their prosperity will be our strength, in their contentment our security and in their gratitude our best reward; and may the God of all power grant to us and to those in authority under us strength to carry out these our wishes for the good of our people".

So important as the basis of the Br. Indian Constitution has this document been considered that when fifty years had passed the Queen's son and successor, King Edward VII issued another proclamation on the 50th anniversary of this great event, in the course of which he said that it had opened a new era. Referring to the interval of half a century between the two proclamations he said "We survey our labours of the past half century with clear gaze and good conscience".

And further on he states "No man among my subjects had been favoured, molested or disquieted by reason of his religious belief or worship—all men have enjoyed protection of the law—the law itself has been administered without disrespect to creed or caste or to usages and ideas rooted in your civilization". When the present Sovereign of India ascended the throne he issued a letter to the Princes and people of India on 24th May 1910 in the course of which he says referring to the two proclamations from which I have cited. "These are the charters of the noble and benignant

MAHOMED ALI'S STATEMENT

spirit of Imperial rule and by that spirit in all my time to come, I will faithfully abide". But if this is the protection of the law that we are to enjoy, no Sovereign can survey the labours of his Government any longer with clear gaze or with good conscience and these poor charters will only serve to mock the noble and benignant spirit of Imperial Rule, which seeks to impose heathen convictions on a believing people and would lead them to look upon God as a figure-head and not as the one real fact of our daily existence.

After all what is the meaning of this precious prosecution. By whose convictions are we to be guided, we the Mussalman and Hindus of India. Speaking as a Mussalman, if I am supposed to err from the right path, the only way to convince me of my error is to refer me to the Holy Koran or to the authentic traditions of the last of the Prophet—on whom be peace and God's benediction—or the religious pronouncements of recognized Muslim divines past and present, which purport to be based on these two original sources of Islamic authority and I contend that I am not in error today because, all religious authority demands from me in the present circumstances, the precise action for which a Government that does not like to be called Satanic, is prosecuting me today.

If that which I neglect, becomes by my neglect a deadly sin, and is yet a crime when I do not neglect it how am I to consider myself safe in this country?

I must either be a sinner or a criminal and like a British Prime Minister of eastern origin like the Secretary of State and Viceroy today but with more than his humility, I like to be on the side of the Angels.

Islam recognizes one sovereignty alone, the sovereignty of God, which is supreme and unconditional, indivisible and inalienable.

This can be seen from the following discourse of the Prophet Yusuf, on whom be peace, with his fellow prisoners in the XII Chapter of the Holy Koran "O my fellow prisoners, are sundry Lords better, or the one all controlling God. Ye serve not besides

TRIAL OF ALI BROTHERS & OTHERS.

him, other than the names that ye have named ye and your fathers. God has sent down therefore no warrant. There is no Government but God's. He has commanded that ye serve none but His own—self. This is the right religion but the greater part of men know it not". I am afraid it is even more true today when every poor Subedar Major in the Western Command rushes up in consternation to the Commanding Officer when he receives a verse of the Koran and an authentic tradition of the Prophet, calling upon him to do his first duty, the duty that he owes to his Maker. This sovereignty of God was carried on in His name from time to time among various tribes and people by the Prophet sent down to them. When Mahomed (on whom be peace and God's benedictions) departed from this world, as the last of the Prophets after having brought the final message of God's peace to all mankind, He was followed by his Khulafa or successors who were entitled "Commanders of the faithful".

They continue the succession to this day, the present Commander of the Faithful according to our creed being his Imperial Majesty the Sultan of Turkey. The only allegiance that a Mussalman, whether civilian or soldier, whether living under a Muslim or under a non-Muslim administration, is commanded by the Koran to acknowledge is his allegiance to God to his Prophet and to those in authority from among the Mussalmans, chief among the last mentioned being of course that Prophet's successor or commander of the faithful. But to these latter his allegiance, unlike his allegiance to God and his prophet, is a sub-ordinate and conditional allegiance. As the following verses from the 4th Chapter of the Koran, entitled "Nisa" or women will clearly indicate "O ye Faithful, obey God obey the Prophet and those who are in authority from among you, and if ye dispute regarding aught, refer it unto God and His Prophet, if ye believe in God and the Last Day". This is better and the fairest determination that is to say even if the Commander of the Faithful

MAHOMED ALI'S STATEMENT.

i.e. the Successor of the Prophet, command the Mussalmans to do anything that he is unwilling to do, he is not only entitled but required to refer the matter in dispute between himself and the highest human authority that he recognizes today to the arbitrament of the Holy Koran and the authentic tradition of the Prophet. This is the central doctrine of Islam which is summed up in the well known kalma or creed "La-i-La-il-illah Mahomed-Rasul Allah".

This doctrine of unity is not a mathematical formula elaborated by abstruse thinkers for abstruse thinkers but a work—a—day belief of every Mussalman learned or unlettered. It was to test the clearness and purity of this belief that Khalifa Umar one day turned to the congregation assembled in the mosque for the service he was conducting and asked them what they would do if he who was for the greatest conqueror among the successors of the Prophet commanded them to do any thing that was against the commandments of God and the tradition of the Prophets and the only proper answer for a Muslim to give to such a question was given by Hazrat Ali, who himself became the Khalifa subsequently, that if Hazrat Umar did command such an infraction of the law of God, he Ali who had sworn allegiance to him as the Khalifa would unhesitatingly cut off his head. I believe a similar contingency arose in the course of British Rule not in India but in England when the puritans chopped off the head of a king who very much believed in the Divine rights of kings. Mussalmans have before this also and elsewhere too, lived in peaceful subjection to non-Muslim administrations. But the unalterable rule is and has always been that as Musalmans they can obey only such laws and orders issued by their secular rulers as do not involve disobedience to the commandments of God who in the expressive language of the Holy Koran is "the all ruling Ruler". These very clear and rigidly definite limits of obedience are not laid down with regard to the authority of non-Muslim administrations only. On the contrary they are of universal application and can neither be enlarged nor reduced in any case.

TRIAL OF ALI BROTHERS & OTHERS.

Neither His Highness the Nawab of Rampur, my own sovereign, nor His Exalted Highness the Nizam nor even H. I. M. The Sultan of Turkey dare demand from his Muslim subjects, obedience to such commands of his as transgress the law of Islam. A further exposition of this principle is proved by the following among other authentic traditions of the Prophet. It says "For a Mussalman to hear is to obey whether he likes what is ordained or does not like it, provided it does not ordain aught that constitutes, divine disobedience and if he is ordained aught that constitutes divine disobedience, there is neither hearing nor obeying—" again—"No obedience is due in ought that constitutes divine disobedience. Obedience is due only in that which is righteous". The same idea is expressed in another tradition of the prophet the logic of which is invincible. "No obedience is due to a creature of God in aught that involves disobedience to the Creator Himself". Due warning of the ultimate consequences to which the anti-Khilafat and anti-Islamic policy of Mr. Lloyd George's Government was driving the Mussalmans of India was given off by the Indian Khilafat Delegation of which I had the honour to be the head, both in writing, when the last mentioned tradition was cited more than once, and also in the course of the interview which the Delegation had with him at 10 Downing Street on 19-3-1920. There is therefore nothing in the action of Indian Mussalmans generally or of ourselves particularly that should have come as a surprise to Government. We owed a duty to God and we owed a duty to the Empire and in the last resort when the demands of the Imperial Government came into direct conflict with the demands of the universal Government of God, as Musalmans we could only obey God and I am endeavouring to do so to the best of my humble capacity. A Mussalman's affection and disaffection are alike regulated by Divine pleasure and displeasure. As the Prophet said "Love is in God and Hate is in God." So long as the Musalmans of India had not been forcibly driven to believe that British Government was the Enemy of God and the Enemy of Islam, they remained loyal

MAHOMED ALI'S STATEMENT.

to it through thick and thin and their loyalty was carried to such length that it was often made, and not always without reason, a reproach to them by sister communities in India. But they have now been convinced of the Hostility of the Government to their faith as well as to their country, by the policy pursued for more than a decade by the Government with regard to Islamic states and particularly the Khilafat to which every Mussalman owes allegiance as part of his creed. During the last war which so far as the Khilafat is concerned has not yet ceased, pledges solemnly given by Government regarding the freedom of the Holy places of Islam which are territories and not buildings from attack and molestation and the retention by the Khalifa of his capital in Constantinople and of Thrace and Smyrna have been broken with the same light-hearted ease with which religious obligations of the Mussalman on the fullest respect for which, Muslim loyalty has always been based were disregarded when they were compelled to fight against the Muslim armies of the Khalifa. This was done even after his declaration of Jihad, and our hunger-stricken and terror-stricken warriors were packed off to fight, in what responsible ministers themselves, including the Prime Minister and that pinch-beck Napoleon Mr. Winston Churchill then Minister of Marine, characterised as a crusade. That crusade still continues and new Christian recruits have been enlisted by Government to carry the crusade into the homelands of the Turks in the person of Greeks who were not even at war with Turkey. Government which became responsible for the Greek invasion of Turkey in contravention of the terms of the armistice and has in many ways, both open and secret, assisted them, is also responsible for the shameless and nameless atrocities which they have indubitably perpetrated on the showing of Allied commissioners themselves.

If Indian Mussalman had a more effective force at their command to try conclusions with Government, they would have been obliged today by the Islamic law, if they chose to remain Muslims,

TRIAL OF ALI BROTHERS & OTHERS.

to declare a Holy War against it and this dispute of ours would have been in course of settlement in a very different place from the Khalikdina Hall. In the regrettable absence of such force, such of them, as can arrange to leave the country are required by the same law to migrate to a safer land where no Public Prosecutor could molest or disquiet their religion, though of course only with a view to return to it, after they had freed their country and made it safe for the undisturbed worship of God.

In June 1920 the Central Khilafat Committee in accordance with the law of Islam and in consultation with some leading compatriots of other faiths, decided upon a course of action, which gave the Mussalmans hope of early emancipation without having to wage war against Government or migrate to another country.

Note:—Mr. Mahomed Ali agreed he will put in a further statement hereafter to supplement this. This was at the suggestion of the Court.

Q. Whether the copies of the Gokak resolution (one in English and one in Urdu) were found in your kit ?

A. These two (Exs. 72 and 73) were found from my kit and they belong to me. The Urdu is drafted by me and the English is my own translation drafted by me. The verses are also in my handwriting but not composed by me. I admit that, that is the resolution passed at Gokak. There is no reason for me to admit that the translation of the sixth resolution given in Government order is correct. But I admit that a resolution in similar terms as given in Government order was passed at the Karachi Conference.

Taken 28th September 1921.

Sd. S. M. TALATI,

City Magistrate, Karachi.

Correct except that my answers to some questions have not been fully recorded.

Sd. MAHOMED ALI,

MAHOMED ALI'S STATEMENT.

Note.—When this statement was closed on 28th September 1921, accused Mahomed Ali said he had said all he had to say on the resolution passed at the Conference and had also dictated six pages of political and religious position about these resolutions but said that he had still fourteen pages of political and religious matter to dictate. On that he was asked by the Court to put in a typed statement which will be kept on record and considered. The Court typist was specially sent to type it at the Jail, but Mr. Mahomed Ali now says that the statement is not yet ready. The statement already given by the accused has very little to do with the case itself, and is only meant as a political speech or a lecture for the public. The rest will also be in the same strain as it is part of the religious and political discussion on the case which has very little to do with the breach of sections of Indian Penal Code. I therefore do not consider it necessary to delay the framing of the charges till that supplementary statement is received, though it will be put on record whenever it is received, and I accordingly frame the charges today.

(Sd). S. M. TALATI,

29-9-21.

City Magistrate, Karachi.

(Continuation of Mr. Mahomed Ali's statement.)

But in June 1920 the Central Khilafat Committee in accordance with the laws of Islam and in consultation with some leading compatriots of ours of other faiths, decided upon a course of action which gave the Mussalmans hope of early emancipation without having to wage war against Government or to migrate to another country. They resolved that they would, to begin with, cease to co-operate with Government and in this way while incidentally helping to paralyze the Administration, they would no longer be a party to such hostile action as Government still continued to take against the Khilafat and Islam. This plan of Non-co-operation was based on the well known Islamic doctrine of "Tark-i-Mawalat" for which there is ample authority in the Holy Quran itself, not to men-

tion the numerous authentic Traditions of the Prophet on the subject. Only a few passages from the Holy Quran are here cited:—

“O ye faithful, if ye go forth to fight in defence of my religion and out of a desire to please Me, take not my foe and your foe for your friends, rushing into friendly relations with them since they deny or reject that which hath come unto you of truth, drive forth the Apostle and yourselves because ye believe in God your Lord; ye privately show friendship unto them; verily I will know that which ye conceal and that which ye discover; and whoever of you doth this, hath already gone astray from the even path. If they get the better of you, they will be foes unto you and they will stretch forth their hands and their tongues against you with evil; and they ardently desire that ye should become once more unbelievers. Neither your kindred nor your children will avail you at all on the Day of Resurrection; God will separate you from one another and God doth behold what ye do. Ye have an excellent exemplar in Abraham and those who were with him when they said unto their people, verily we are clear of ye and of those that ye serve besides God; we have renounced ye; an enmity and hatred is begun between us and you for ever until ye believe in God alone—except Abraham’s saying unto his father, Verily I will beg pardon for thee; but I cannot obtain aught of God in thy behalf. O Lord, in Thee do we trust and unto Thee do we turn and unto Thee is the eventual coming. O Lord, suffer us not to be put to trial by the unbelievers (i. e. by the terror of their prosecutions) and forgive us O Lord, for Thou art the Mighty, the Wise. Verily we have in them an excellent example unto him who hopeth in God and the Last Day; and who so turneth back, verily God is Self-Sufficient and Praiseworthy. Peradventure God will establish friendship between yourselves and such of them as Ye now hold for enemies, for God is Potent and God is inclined to forgive and be merciful. As to those we have not warred against you on account of your religion nor drove you forth out of your homelands, God forbiddeth you not to deal kindly with them and believe justly towards them, for God

MAHOMED ALI'S STATEMENT.

loveth those who act justly. But as to those who have warred against you on account of your religion, and have dispossessed you of your homelands, and have assisted those who drove you forth, God forbiddeth you to enter into friendship with them, and whosoever of you entereth into friendship with them, those are "wrong-doers. O ye Faithful, enter not into amity with the people against whom God is wrath; they despair of the life to come even as the Infidels despair of the resurrection of the dwellers in graves" (Sura-i-Mumtahina, "She who is Tried" chapter 60th).

These verses, it may be here mentioned, were revealed when, on the eve of the conquest of Mecca, a Companion of the Prophet Hateb-ibn-i-abi Baltas, had by letter which was intercepted, sought to advise the Meccan Infidels to be on their guard, merely because he wished thereby to induce them to treat his family, which was still at Mecca, with some kindness. The verses laying down a very different course of conduct with regard to the relations of Mussalman with a different class of non-Muslims to those warring against Islam are said to have been revealed with reference to the action of Hazrat Asma the daughter of Hazrat Abu Bakar and sister of Prophet's wife Hazrat Ayesha, who had gone so far in her renunciation of her own mother, who was still an unbeliever, that she had not only refused to accept the presents which her mother had brought to her, but had even denied her admittance. Both these incidents indicate the rigidly and fixed limits of a Muslim's relations with non-Muslims, ditinguishing clearly between such non-Muslims as war against them on account of their religion and dispossess them of their home-lands, and such others as do not. Since the British Government so obviously falls in the first category, no co-operation or friendly relations with it are possible for a Mussalman. A few more passages from the Holy Quran will be cited here on the subject just to indicate that there is no lack of them in Sura-i-Mujadilah ("She who disputed" the 58th Chapter) the following verses occur:—

"Hast thou not observed those who have taken for their friends a people against whom God is wrath. They are neither of you nor

TRIAL OF ALI BROTHERS & OTHERS.

of them and they swear a lie knowingly. God hath prepared for them a grievous torment for verily evil is that they do. They have taken their oaths for a cover and under cover of their perjuries they have turned people aside from the path of God, wherefore a shameful, torment awaiteth them. Neither their wealth nor their children shall avail them ought against God; these shall be companions of the fire (i. e. dwellers in Hell) they shall abide therein for ever. On the day when God shall raise them all, they will swear unto Him then as they swear unto you now, deeming that it will avail them. Are they not—yes they are—the liars? Satan hath gained mastery over them, and hath caused them to forget the remembrance of God; these are Satan's Party. What! Shall not verily the Party of Satan be doomed to perdition? Verily those who oppose God and His Apostle shall be placed among the most vile. God hath written this decree; Verily I will prevail, I and my Apostle; Verily God is strong and Mighty. Thou shalt not find a people who believe in God and the Last Day, to bear affection towards him who oppose the God and His Apostle even though they be their fathers or their sons or their brethren or their nearest kin. On the hearts of these hath God graven the Faith, and with His Own Spirit hath He strengthened them; and He will lead them into the gardens, beneath whose shades, the rivers flow, to remain therein for ever. God is well pleased with them and they are well pleased with Him; these are God's party; and is not, of a truth, the Party of God destined to prosper"? Surely in view of these passages there can be no ambiguity about a true Muslim's co-operation or non-co-operation with those who are ranged in opposition to God and His Apostle.

Again in Surai-al-i-Imran (the third Chapter of the Holy Quran entitled "The Family of Amran") the following passages occur:—

Say O God, Possessor of all dominion, Thou giveth dominion to whom Thou wilt, and from whom Thou wilt, Thou taketh it away; Thou exalteth whom Thou wilt, and whom Thou wilt Thou doth abase; In Thy hand is Good; Verily Thou art over all things Potent.

MUHAMMAD ALI'S STATEMENT.

Thou causeth the night to pass into the day and Thou causeth the day to pass into the night; Thou bringeth the living out of the dead, and Thou bringeth the dead out of the living; and Thou giveth substance to whom Thou wilt without measure. Let not the Faithful take Infidels for their friends. Rather than the Faithful—who-so shall do this hath naught to hope from God unless indeed, ye entertain a dread of them; but God warneth you to beware of Himself; for unto God is the eventual coming. Say; whether ye hide what is in your breasts or whether ye declare it, God knoweth it; He knoweth whatever is in Heaven and whatever is on earth for God is over all things Potent. On the day when every soul shall find present unto the good that it hath wrought and also the evil that it hath wrought, it shall long that between itself and that evil were wider space; and God warneth you to beware of Himself, for God is gracious unto His Servitors. Say, if Ye Love god, then follow me; God will love you and forgive you and forgive your sins for God is forgiving and Merciful. Say, obey God and Apostle; but if ye go back, then verily God loveth not the Infidels. Say; O people of the Book; why do ye reject or deny the signs of God; and God is witness of that which ye work. O people of the Book, why do ye hinder him—him who belives in the path of God; ye seek to make it crooked and yet ye are its witnesses; But God is not unmindful of what ye do. Oh ye Faithful if ye obey any party from among those who have received the Scriptures they will turn you back infidels after your very faith, and how can ye become Infidels when the signs of God are recited unto you and among you is His Apostle? But whosoever holdeth fast by God is already guided to a straight path. Oh Ye Faithful, fear God as He deserveth to be feared and, die not till ye also be true believers; and hold ye fast by the cord of God, all of you, and break not loose from it; and remember the favour of God towards you. How that, when ye were enemies He cast affection of each other into your hearts and ye became brethren by His favour; and ye were on the brink of a pit of fire and He delivered you thence; thus doth God make clear unto you His signs that ye may be guided—Let there be a people among

TRIAL OF ALI BROTHERS & OTHERS.

you who invite the Good and enjoin the Just and forbid the wrong; and these are they who are destined to prosper. And be not like unto those who are divided and fallen into variance after manifest proofs have been brought unto them; a terrible torment doth await them. On the Day of Judgment faces shall turn white and faces shall turn black; and as to those whose faces shall turn black, God will say: What! After your belief, have ye become infidels? Taste then the torment for those that yet have been unbelievers. And as to those whose faces shall become white, they shall be within the mercy of God; therein shall they abide for ever. These are the signs of God; we recite them unto thee in truth; and God willeth not injustice to the world. And to God belongeth whatever is in heaven and whatever is on earth and unto God shall all affairs return.

O ye Faithful, contract not intimacies among others than yourselves; they spare you not the infliction of harm; they long for your ruin; hatred hath already appeared from out of their mouths, but what their breasts conceal is still more inveterate; we have already made plain unto you the tokens there-of, if ye will but comprehend. Behold, ye love them but they love you not; ye believe in the Book, the whole of it, but when they meet you they say, we believe, and when they are apart, they bite their fingers' ends at you in wrath and say; die in your wrath. God truly knoweth the very recesses of your breasts. If good befalleth you it grieveth them, and if evil afflicteth you, they rejoice in it; but if ye be steadfast and fear God, their strategem shall no way harm you; for God encompasseth whatsoever they work."

These passages refer directly to the people of the Book, such as Jews and Christians, and they lack neither in clearness nor in emphasis, nor indeed in the irrefutable logic of the arguments therein employed. I will cite here only one more passage wherein Jews & Christians are more specifically mentioned:—

"Oh ye Faithful, take not the Jews and the Christians for your friends; they are friends the one to the other; but whoso among you taketh them for his friends, he surely is one of them. Verily, God

MAHOMED ALI'S STATEMENT.

guideth not the unjust people. So shalt thou see the diseased at heart speed away unto them and say. "We fear lest we get involved in some change of fortune; but haply God will bring about the Victory or some event of His own ordering; then soon shall they repent them of imaginings they have secretly harboured in their minds. Then will the Faithful say: What are these, they who swore by their most fervent oath that they were surely with you; vain their works; and themselves shall come to ruin. O ye Faithful, should any of you desert His religion, God will then raise up a people whom He will love and who will love Him; lowly towards the Faithful, haughty towards the Infidel. for the cause of God will they strive or contend (i. e. wage Jihad and not fear the censure of any sensurer) this is the grace of God; on whom He willeth He bestoweth; and God is vast, omniscient. Verily your friend is God and so is His Apostle and so are the Faithful who keep up prayer and pay the alms of obligation and who bow down before God. And whoso taketh God and His Apostle and the Faithful for friends, they truly are the Party of God and the Party of God are destined to dominate. O Ye Faithful talk not of such of those who have received the scriptures before you as scoff and jest at your religion, or the Infidels for your friends; but fear God if ye be Faithful. Nor those who, when ye call to prayer make it an object of raillery and derision; this they do because they are a people who understand not. Say O People of the Book, do ye not disavow us because we believe in God and in what hath been sent down to us and in what hath been sent down aforetime and the greater part of your transgressions thereof. Say! Shall I denounce unto you a worse than this deserving of the retribution which awaiteth them whom God hath cursed and with whom he hath been wrath. Some of them hath He changed into apes and swine and they who serve "Taghout" (the Devil) they are in the worst plight and have gone far astray from the right path. When they presented themselves to you they said we believe; but Infidels they came unto you and Infidels they went forth. God knoweth best what they conceal. Many of them shalt thou see hastening to-gether, to

TRIAL OF ALI BROTHERS & OTHERS.

sin and transgression and to eat what is unlawfully acquired. Shame on them for what they have wrought. Had not their Rabbis and doctors of law forbidden their uttering what is sinful and their eating of that which is unlawfully acquired. Evil indeed is that which they have wrought" (Sura-i-al Maidah the 5th Chapter of the Holy Quran entitled "The Table or The Food.")

There are besides these many more verses in the Holy Quran itself—not to mention the traditions of the Prophet—every one of which forbids a Mussalman, on pain of the wrath of God, and the most grievous torments of Hell, to maintain relations of amity and friendship, much less rendering assistance to, or co-operating with such non-Moslems as are at war with Moslems and oppose God and his Apostle, which is precisely the case here. Indeed, so rigid is the Law of Islam in this behalf that Mussalmans are forbidden even to assist each other in aught that is unrighteous. Says the Holy Quran "Assist each other in righteousness and God-fearing, but assist not each other in sin and transgression".

These being the limits of co-operation even among Mussalmans themselves, how is it to be supposed that co-operation will be permissible with infidels waging war against Islam and the defenders of Islam, as Government is doing to this day; and co-operation too is waging that war itself. Five hundred of the most distinguished Ulema of Islam in India issued a juridical pronouncement against it months before the Karachi Khilafat Conference was even thought of by anybody in India. But all of a sudden, when the shameless effort of Government to twist our statement regarding non-violence into a recantation and abject surrender for fear of prosecution failed so ignominiously through the persistence of Mahatama Gandbi, the incidental mention of the army in the Angora Resolution of the Karachi Conference was pronounced upon by Government, as subsequent to the Gandhi—Reading interview, and lo, and behold the Fatwa of the Ulema was declared forfeited to His Majesty after perhaps half a million copies thereof had been distributed all over India by various provincial and local bodies, in addition to the central

MAHOMED ALI'S STATEMENT.

organisations themselves. Not by such tricks, I submit can three hundred and twenty millions be ruled in the twentieth century.

And on what is the Fatwa of these five hundred divines based? On the clearest and most emphatic commands contained in the Holy Quran which prescribes the severest sanctions, and on the repeated testimony of the Prophet's most authentic Traditions. I do not think I can do better than cite both without argument or comment of my own, for none is really necessary.

Here are some six passages from the Holy Quran :—

1. "It is not for one of the Faithful to kill another but by mischance" and thereafter follow the severe penance prescribed even in cases of such mischance (Sura-i-Nisa Chapter IV).

2. "But whoever shall kill one of the Faithful wilfully, his recompence shall be Hell; for ever shall he abide therein. God shall be wrath with him, and shall curse him, and hath prepared for him a great torment" (Idem).

3. "Ye Faithful: devour not each other's substance falsely except that it be trading among you by your own consent; and kill not your own people, verily God is unto you Merciful. And whoever shall do this with malice and wrongfully, we will soon cast him in fire, for unto God is this easy. If ye shun the great things that are forbidden we will blot out your faults, and we will lead you into Paradise with honourable entry (Idem).

4. After recounting the story of the first killing, the murder of a brother by a brother, the crime of Cain, in spite of Abel's declaration of his own doctrine of non-violence, the doctrine of every Moslem in like circumstances: "Even if thou stretch forth thy hand against me to slay me, I will not stretch forth my hand against thee to slay thee; verily I fear God, the Lord of the Worlds", The Quran says "For this have we ordained unto the children of Israel that whoever slayeth another soul unless it be for man-slaughter or for spreading disorder in the land, it is as though he slew all mankind; and whoever saveth a life, it is as though he saved all mankind alive. (Sura-i-Maidah Chapter V).

TRIAL OF ALI BROTHERS & OTHERS.

5. And the servitors of the Beneficent God are they, who call on no other gods with God nor slay thy soul. God hath forbidden to slay, except for just cause, and commit not fornication for he who doth this shall meet the reward of sins (that part of Hell which is known as Asam). Doubled unto him shall be the torment on the Day of Resurrection, and therein shall he remain disgraced for ever. (Sura-i-al-Furqan Chapter XXV).

6. "And slay not a soul whom God had forbidden you to slay except for just cause" (Sura-i-Bani-Insrail Chapter XVII).

If we turn to the Traditions of the Prophet, they are so numerous and each and every one of them so clear and emphatic that it becomes exceedingly difficult which to choose and which to leave out. Nevertheless I shall attempt a selection and the following should suffice; the first cited here being the Tradition that explains what alone is "just cause" for which a Moslem is permitted to slay another:—

1. "Shedding a Moslem's blood is not permissible except in three cases, when life is taken for a life, (i. e. as punishment for murder) as punishment for adultery and as punishment for a renegade deserting his side" (This is to be found in the most authentic collections of Bukhari, Moslem, Tirmizi, Abdu Daud, Nasai, and others).

2. "A Moslem is he, from whose tongue and hand a Moslem remained immune". (Bukhari, Moslem, Abu Daud-Ad Tirmizi etc).

3. "To abuse a Moslem is wrong doing and to wage war against him is Infidelity" (Kufr) "(Bukhari, Moslem, Tirmizi Abu Daud, Nasai-N Ibn-i-Maja.

4. "He who bears arms against us is not from among us" i. e. is not a Moslem any longer (Bukhari, Moslem, Tirmizi, Abu Daud).

5. "Even if the inhabitants of all the heavens and all the earths were accessories in the slaying of a single Moslem, God will certainly push them all into the Fire." (T. Behaqi-Bq-Tib-rani-T. B).

MAHOMED ALI'S STATEMENT.

6. "Whoso assisted in the slaying of a Moslem even with half a word, shall meet God with this written between his eyes "Despaiser from God's Mercy (i. e. he shall receive no portion of God's abounding Mercy)." (Im. Q. B. A-sbahani).

7. "The murder of a Moslem is greater in the sight of God than the disappearance (i.e. destruction) of the world. (N. B. Q.)

8. "The disappearance of the world (i.e. destruction) is a lighter matter to God than the murder of a Moslem." (M. N. T. I. M.)

9. "God may, it is to be hoped, forgive every sin, but not the man who died while still an infidel, nor the man who killed a Moslem wilfully" (A. D. Ibn-i-Haban. N. Hakim).

10. Whoso killed a Moslem without discriminating between killing for just cause or without it, God will accept from him neither his discharge of obligatory duties nor optional devotions." (A. D.)

11. "Every Moslem's life and honour and property are haram (unlawful, forbidden) for every other Moslem". (M).

12. "There are seven doors to Hell, one of which is for those who draw sword on my followers". (I).

13. "The major sins are associating another with God, disobedience towards parents, slaying of a soul that is forbidden and perjury", B. M. &c.)

14. "Let him who can see to it that there is not between him and Heaven even a handful of a Moslem's blood, even as much as a fowl's which is killed (for food), for whenever such a man will present himself before any of the gates of Paradise, God will interpose Himself between him and Paradise." (T. B. B. Q.)

15. Whoso went forth drawing his sword against my followers, striking alike the good and the bad, sparing neither the Faithful nor those in alliance with them (literally, nor fulfilling the pledge in case of those to whom a pledge was given) is not of me nor am I of him. (i. e. He is not a Moslem and the Prophet too has no concern with him)". (M).

16. When two Musalmans quarrel with each other and use their swords, both the slayer and the slain shall be cast into the Fire. When the people said. "Oh Prophet of God, the reason for the slayer being cast into the Fire is plain; but why the slain as well? The Prophet replied 'because he had intended to kill his companion'. (B. M. T. and etc.)

I will cite two more Traditions which I had purposely left out hitherto because they need special emphasis. Ibn-i-Maja gives the following *Hadees* related by that Prince of Traditionists, Hazrat Abdullah son of Hazrat Omer:—

"I saw the Prophet of God circumambulating the K'aba saying the while "How good art thou (O, Kaba) and how good is thy air; how great art thou, and how great is thy sanctity. But by Lord in whose hands is the soul of Mahomed; *certainly the sanctity or one of the Faithful in the sight of God is greater than thine own,—the sanctity of his goods and of his blood.*" And this infidel Government prosecutes six Musalmans and a Hindu of recognized sanctity for calling upon Musilmans to respect the sanctity of Moslem life and Moslem property that is greater than the sanctity of the Holy of Holies, after having outraged the sanctity of both. The last Tradition that I am going to cite here is the last word of the last of the Prophets on this subject. Only three months before he passed away, closing for ever the chapter of divine revelation, he went on his last pilgrimage to Mecca, where about 175,000 people accompanied him. Addressing these assembled multitudes on the day of the Haj, he asked them what day it was, and the people understanding that he could not be unaware of that, and was asking it only to emphasise the importance of the occasion, answered "God and the Prophet of God know best." Then he asked what month it was, and they answered in like manner. Finally, he asked them what city it was, and they answered as before. Then said the Prophet, and it is related in all the collections of his Traditions and in books of history and in his biographies. "Beware, in truth, your blood your goods and your honour are *haram* (religiously forbidden)

MAHOMED ALI'S STATEMENT.

unto you like the *hurmat* (the noun substantive corresponding to the adjective *haram*) of this day, in this city, and in this month. Beware, turn ye not into *Infidels*, after me, *cutting off the necks of each other.*" It is to this infidelity that Government still continues to invite Moslem soldiers, and when we reminded them of this solemn exhortation of the Prophet on so solemn an occasion, a Government which desires us to disregard even the Prophet's dying injunction regarding the elimination of all non-Moslem control from the Jazirat-ul-Arab, prosecutes us, in spite of all the Proclamations of all British Sovereigns, who have solemnly disclaimed alike the right and the desire of imposing their own convictions on us.

I will only mention one fact which should bring the law of Islam home to all. The Sepoy's Mutiny after which the Queen's Proclamation was issued had originated with greased cartridges in which cow's and swine's grease was believed to be mixed. But Islamic law according to the best authorities which I can cite, not only permits a Moslem to take swine's flesh if he is, in case of refusal, threatened with death; but lays it down that he would die a sinner if he refused it; but, if he is threatened with death unless he slay another Moslem, *he must refuse*. He may in like circumstances even recant Islam, if he continues to be believer at heart but *he must not slay a Moslem*. And yet a Government which is so tender as to ask soldiers before enlistment whether they object to vaccination or even re-vaccination, would compel a Moslem to do something worse than apostatize or eat pork. If there is any value in the boast of toleration and in the Proclamations of three sovereigns, then we have performed a religious and legal duty in calling upon Moslem soldiers in these circumstances to withdraw from the army, and are neither sinners nor criminals.

(Sd.) MOHAMED ALI

1st October 1921.

Servant of Kaba.

Order file with the Accused's Statement.

(Sd). S. M. TALATI,

1-10-21.

City Magistrate, Karachi.

TRIAL OF ALI BROTHERS & OTHERS.

IN THE COURT OF THE CITY MAGISTRATE KARACHI.

Case No. of the General Calendar for 1921.

The King. Emperor.

Versus.

Mahomed Ali and others.

Examination of the accused No. 2. Hussain Ahmed.

Q. Were you present at the last Khilafat Conference held in Karachi on 9th July 1921.

Note: Accused does not answer it.

Q. Did you make a speech at that Conference on the 6th resolution.

A. Same answer.

Q. Was a resolution passed at that Conference in terms similar to those given in Government order and exhibited in the case.

A. Same answer.

Q. Have you anything to say about the witnesses on the evidence they have given in the case.

A. Yes. I support my friend accused No. 1 in all he has said and I support the resolution even now.

Note:—Accused is talking of previous history of India and of political matters and of passages in the Quran which is not taken down as irrelevant. Accused read out 34 couplets from the Quran and translated them. Accused also read some fatwas of Ulema.

Sd. S. M. TALATI,

29-9-21.

City Magistrate, Karachi.

Certificate to be attached to the examination of an accused person.

Sections 364 of the Code of C. P.

Certified that the above examination of the accused Hussain Ahmed has been taken in my presence and in my hearing and contains a full and true account of the statement made by him.

Dated this 29th day of September 1921.

(Sd). S. M. TALATI,

City Magistrate, Karachi.

MAHOMED ALI'S UNRECORDED STATEMENT.

(Note :—What is recorded below does not appear in the record of the Court proceedings but it has been taken down by a short-hand reporter as what passed between Mr. Mahomed Ali, the Public Prosecutor and the Magistrate. It occurs at the place where Mr. Mahomed Ali referred to Muslims leaving the country for a safer land etc.) Compiler.

Mr. Elphinston interrupted and said "I draw the attention of the Court and object to the trend of Mr. Mahomed Ali's discourse, which in fact is just like a speech not germane to the subject before the Court. Section 342 Criminal Procedure Code gives an accused person only an opportunity to explain the evidence given against him. He has not explained anything but has entered into an elaborate discussion which it is not necessary to do and which is a mere waste of time. Section 364 C. P. C. only requires answers to the questions put to be recorded—not irrelevant matter. Mr. Mahomed Ali in a temper observed: "I cannot understand what the Public Prosecutor means. The Crown has laid no charge against us, and after listening for two and half days to the evidence of the Prosecution witnesses, I have come to the conclusion that it has been nothing but a medley of things. All that could be said against us was that we were instrumental in getting some resolutions passed at the Khilafat Conference while my brother's crime was in lifting his hand up signifying his concurrence of the resolution. He was bound to expound the Islamic law by which alone he was bound and I was bound, and that was exactly what we were doing. I have not gone beyond the point but I have solely confined myself to discussing the law of Islam. I also base my remarks upon the Proclamation of three successive British Sovereigns most solemnly made to the people of India from time to time and may I ask whether those proclamations (raising the book high from which he read them) were "mere scraps of paper"? If the Public Prosecutor would not tolerate the elucidation of Islamic Law he must say so. I would then understand that either we Muslims will have to leave India or make others leave it.

TRIAL OF ALI BROTHERS & OTHERS.

After Mr. Mahomed Ali had proceeded with his statement for sometime, the Magistrate asked:—

Magistrate:—"Mr. Mahomed Ali have you still more remaining to say"?

Mr. Mahomed Ali "Yes, I have as yet done with the six pages of my rough notes. There are in all twenty pages. So there remain fourteen still."

Magistrate:—"It will make a very lengthy statement if I go on recording like that. I should be glad if you give me a written statement by tomorrow. I am otherwise prepared to take down every word of what you say but I would ask you to be as short as possible."

Mr. Mahomed Ali replied that he had no conveniences in jail to prepare the unfinished statement and therefore he demanded a shorthand writer and a typist for this purpose. To this the Magistrate promised to send a typist to the aid of Mr. Mahomed Ali in jail and on this assurance the accused closed his statement.

Magistrate:—"I will just put you a few questions which you will please answer".

Mr. Mahomed Ali:—"If the questions are intended to strengthen the case for the Prosecution, I refuse to assist Government".

Magistrate:—"You are at liberty to answer the questions or not, but my object is that certain facts and points should be elucidated.

Mr. Mahomed Ali:—"Allright, I would answer the questions if I think they are proper.

STATEMENT OF ACCUSED No. 2 HUSSAIN AHMED.

(Note:—This statement of Moulvi Hussain Ahmed as given below does not appear on the Court record but has been taken down by a shorthand reporter). Compiler.

Q. Have you anything to say about the witnesses or the evidence that has been adduced in this case?

HUSSAIN AHMED'S UNRECORDED STATEMENT

A. (Speaking in Urdu, he said) Yes. I shall first of all put before the Court the Islamic law with regard to the subject matter of the resolution. I shall then give a historical survey of events which will show that India is a religious country. Its inhabitants are above religious intolerance. To make concession for religious beliefs of the people had always been thought necessary by this Government in the past. Queen Victoria and her statesmen well understood this. They knew that peace could be maintained in India only by religious toleration. To this end, Queen Victoria's proclamation was issued. The right of religious liberty had been fully admitted. It has been fully admitted in that document that no religious preacher would be molested. It was therefore that peace could be kept.

Now I want to offer a few personal remarks. I stand today before the world in two capacities, one as a Mussalman and the other as an Alim.

Magistrate. It is a lecture.

Hussain Ahmed unheeding the magistrate's remark proceeded.

"As a Muslim it is my bounden duty to believe in the whole and every part of the Koran and to believe in the traditions of the Holy Prophet. It is the duty of every Mussalman therefore not to obey any orders of any earthly power, which seeks to prevent him from performing that holy duty.

(He here began citing various passages from the Koran and explaining them in high Urdu words and also referred to some holy scriptures of the muslim religion).

Continuing he said that the above authorities were from the books of old. Referring to the recent books he said that Hazrat Shaikh Abdul Aziz Dehelvi wrote in the 2nd vol. of his famous Fatwa only about 100 years ago that "It is Haram (i. e. religiously unlawful) for a Muslim to serve in the British Army".

The magistrate interrupted and said that the Court had nothing to do with the Fatwas.

TRIAL OF ALI BROTHERS & OTHERS.

Maulana. How can I then explain the Islamic law?

Mr. Mahomed Ali. Are you then concerned with only Blackstone's and Cook's Commentaries?

Maulana Hussain Ahmed continuing said "If the Ulema chose to reaffirm this old truth, there was nothing new or amiss in it. The resolution has been in existence ever since the advent of the Islam. And since, even under the British rule the subject matter of the resolution has been asserted in religious works without Government interference, I contend that no prosecution can lie against me. The only difference was that like a despairing doctor who administers frequent doses to a patient in precarious condition, the Ulema also repeated the Hadis and Koran more frequently than before. It was necessary to make it clear when Messrs. Lloyd George and Churchill declared that it was a War between Islam and Britain, that it was bounden duty of ourselves to declare that it was a solemn duty of every Muslim to fight the powers against Islam, It was incumbent upon all Ulema to declare in unequivocal terms that any Muslim who joined Christianity against Islam and helped in the destruction of his faith was a Kafir.

Magistrate. I do not want to hear your lecture nor arguments.

Hussain Ahmed. I wil summarize.

"Obedience to authority whether muslim or non-muslim, is always limited according to Islam, by religious cammands. There should therefore be perfect religious freedom." And the resolution is not outside its pale. If Government intend to disregard Queen Victoria's Proclamation it should be made expressly known. The Muslims would then decide whether they choose to be British subjects or Muslims. And so would the Hindus have to decide on their own course either to remain Hindus or British subjects. Concluding he shid "If Lord Reading has come to burn the Koran and to destroy all religious books of Islam by prosecutions like ours, I will be the first to lay down my life in defence of the sacred faith".

DR. KITCHLEW'S STATEMENT.

The King Emperor

Versus.

Mahomed Ali and others.

Examination of the Accused No. 3. Dr. S. Kitchlew.

Q. Have you anything to say about the evidence against you?

Note:—Accused refuses to give a statement except in Urdu although he knows English.

(Sd). S. M. TALATI,

28-9-21.

City Magistrate, Karachi.

Q. Were you present at the meeting of the All India Khilafat Conference held in Karachi on 9th July 1921?

A. I don't want to answer this question.

Q. Did you speak in support of the 6th Resolution at the Conference, which among other things stated that "It is in every way religiously unlawful for a Musalman at the present moment to continue in the British army, to enter the army, to induce others to join the army and it is the duty of all Mussalmans in general and of the Ulema in particular to see that these religious commandments are brought home to every Mussalman in the army?"

A. I do not want to answer this question.

Q. Was a resolution in the above terms passed at the meeting of the Conference?

A. I don't want to answer this question.

Q. Have you anything to say about the witnesses or the evidence they have given?

A. Yes I agree with all that my friend accused No 1 has said with respect to this case and I agree entirely with all that he has said about the Koran, Hadis and Fatwas. As a non-co-operator I want to make it clear that I do not want to assist this Court either by word or deed.

TRIAL OF ALI BROTHERS & OTHERS.

Note:—Accused is making statements which I consider irrelevant as they have nothing to do with the case and hence I do not consider it necessary to take them down. The accused is however informed that he can put in any written statement he likes which will be kept on record and considered. And continues:—

I see the resolution that is embodied in Government order, and I say that I am in entire agreement with it and that I was in entire agreement with it at the Conference though I can't say if the wording was the same or not. Before this a similar resolution was passed at Gokak which also I had supported. This resolution as far as I understand does not bring me in the clutches of the Indian Penal Code, section 120B or 131 or 505. I do not want to give any defence either legal or technical under these sections.

Note:—Accused wants to argue the law which is not a statement and is not recorded.

29-9-21.

Sd. S. M. TALATI,
City Magistrate, Karachi.

Accused was asked to sign his statement but he refused to do so.

29-9-21.

(Sd). S. M. TALATI,
City Magistrate, Karachi.

Certified that the above examination of the accused Dr. Saifuddin Kitchlew has been taken in my presence and in my hearing and contains a full and true account of the statement made by him.

28-9-21.

(Sd). S. M. TALATI,
City Magistrate, Karachi.

DR. KITCHLEW'S UNRECORDED STATEMENT.

EXAMINATION OF ACCUSED NO. 3, DR. SAIFUDDIN KITCHLEW.

(Note:—The examination of Dr. Kitchlew as given below is not on the Court record but has been taken down by a shorthand reporter). Compiler.

Q. What have you to say as to the evidence adduced in this case?

A. I can speak in English but still I shall prefer to make my speech in Urdu; the same language in which I made the original speech.

Magistrate. It will be mere waste of time.

Dr. Well, I am sorry, I cannot help it.

Mag. Well, in that case I shall have to make a note on record that you refuse to make a statement in English even though you know that language.

Dr. Do as you please.

The following statement was recorded again the next day i. e., 29th of Dr. Kitchlew.

The accused was asked a number of questions by the Magistrate including whether he was present at the All India Khilafat Conference and whether he did support the 6th resolution, but he refused to give any answers. He observed: "I am not prepared to answer the questions, as today I find quite a different procedure than yesterday's. Ordinarily an accused person gives his statement first and then the Magistrate can put any questions he likes".

Mag. I have now decided to ask questions first and then at the end of those questions you can make a statement if you think it necessary.

Q. Have you anything to say about the witnesses or the evidence that they have given?

A. In the beginning I want to state that I agree with what my revered friend Maulana Mahomed Ali has said yesterday, and particularly I agree with him in the religious aspect of Kuran and Hadis Fatwa. Being a non-co-operator I want to make it clear that I do not want to assist this Court either by word or deed. At

TRIAL OF ALI BROTHERS & OTHERS.

the same time I make it clear too that as a non-co-operator I do not mean to insult the Public Prosecutor or the Magistrate in the least. I am only sorry that an Indian Magistrate should be assisting a Satanic Government. This prosecution is not against me or my friends here but against Islam.

Magistrate. You are giving statement which is quite irrelevant and I therefore disallow such of your statements on the record. I should however inform you that you can put in a written statement that you want to, and that will be kept on the record and duly considered.

Dr. Kitchlew. I proceed on with my statement and what you think is irrelevant may not be recorded, and that which you consider relevant to the case you may record it.

Magistrate. Yes.

Dr. Kitchlew. I have seen the 6th resolution as it appears in the Government Order in English and I admit I am in entire agreement now and that I was in entire sympathy with it at the Conference, though I cannot say whether the resolution is in the same words or not. Before this also a similar resolution was passed at the Gokak Conference which I had seconded. I understand that the wording of the resolution supported by me ought not to bring me into the clutches of Sections 505 or 120 B., Indian Penal Code. I cannot give any defence either legal or technical under these sections. My case does not come under the Indian Penal Code and I understand that the Government wants to kill the Islamic Law.

Magistrate. You are only arguing on the case. I do not think it necessary to take all that down. I will not even note down your arguments.

Dr. Kitchlew. Under Section 505 Indian Penal Code "Exception", I have to explain myself fully.

Magistrate. This is only examination of the accused and not arguments or speech. I am quite prepared to take down your state-

PIR GHULAM MUJADID'S STATEMENT

ment according to law. The law does not apply to the arguments that you are putting. I am sorry I cannot permit you.

Dr. Kitchlew:—I note that the legal procedure of this Court has greatly changed since yesterday. This is only one sided farce and I therefore refuse to recognise or assist this Court. I had intended to say something, but now I decline to do so, as I think that it is not a Court of justice.

Dr. Kitchlew refused to sign the statement.

—:o:—

THE KING EMPEROR

VERSUS

Mahomed Ali & Others.

Examination of the accused No. 4 Pir Ghulam Mujadid.

Q Have you any thing to say about the evidence recorded against you?

A. Our God has given a command to us in Koran 1300 years ago that Courts which are carrying on justice against the Commands of God, should be considered as Zalim. In another place we are enjoined that we are not to take our cases to other Courts except those which administer justice by Koran. We have been ordered 1340 years ago to boycott such courts of justice. We are also ordered in the Koran to take the word of Koran every where in the country. In the 2nd Book of Koran it is laid down that whoever does not take any Koran to other persons is cursed by Me and by all persons. It is also laid down that if a Mussalman fights with or kills another Mussalman then he goes to hell for ever and is under the curse of God and is cursed by all; and that a place will be reserved for him in hell. It is also laid down in the Koran that you should not kill a Mussalman who is worthy in the eyes of God

It is also enjoined by the Prophet in the tradition he gave three months before His death that it is unlawful to shed the blood of another Mussalman brother or touch his property and it is also laid

TRIAL OF ALI BROTHERS & OTHERS.

down that a person who kills a Mussalman is a Kaffir and it is also laid down by the Prophet that He can tolerate the destruction of the whole world but not the killing of one Mussalman by another. It is also laid down that if a Mussalman is compelled to do any bad action he can submit to it except the killing of another Mussalman. Now since I am a literate Mussalman and a Pir, it is my duty to give the word of Koran to all Mussalman brothers.

It is the order of our Koran to inform all Mussalmans not to kill another Mussalman. If any court sits to decide whether the message of the Koran is legal or not, it means that that Court wants that there should be no Mussalman on this earth.

The resolution which was passed in June or July, is 1340 years old. It is not proposed by Mr. Mahomed Ali but it is proposed by the Prophet, and God has approved of it. There are fortyfour Crores of Mussalmans in this world and they read this resolution daily. I do not want to give any statement in a Court that wants to see the Mussalmans and their religion dead in this World.

It is stated in the Koran that any community that tries to kill the Koran will disappear itself. Therefore our religion is not going to be killed by imprisoning or killing seven of us. I will put in a further statement of the Koran relating to this point.

The Mutafigua Fatwa is signed by me and I am one of five hundred others who have signed it. Our All Sind Moulvi Conference had decided to republish that Fatwa and I have also signed that, as that Fatwa is based on nineteen passages of the Koran and three traditions of the Holy Prophet. If that Fatwa is proscribed, it means that nineteen passages of the Koran are proscribed. No Mahomedan will tolerate going against the Koran.

(Sd). S. M. TALATI,

28-9-21.

City Magistrate, Karachi.

Certified that the above examination of the accused Pir Ghulam Mujadid has been taken in my presence and in my hearing and contains a full and true account of the statement made by him.
Dated this 28th day of September 1921.

Sd. S. M. TALATI,

City Magistrate, Karachi.

STATEMENT OF NISAR AHMED.

IN THE COURT OF THE CITY MAGISTRATE, KARACHI.

Case No. of the General Calendar for 1921.

THE KING EMPEROR

VERSUS

Mahomed Ali and Six Others.

Examination of the accused No. 5 Nisar Ahmed.

Q. Were you present at the Khilafat Conference on 9th July 1921 at Karachi?

A. Refuses to reply.

Q. Did you support the 6th Resolution at the Conference as put in this case?

A. I will reply in my speech.

Q. Have you authorised the putting of your name on the Mutafigua Fatwa?

A. Yes.

Q. Have you anything to say about the evidence given by witnesses?

A. Yes.

Accused recites 2 couplets from the Koran and says they enjoin on all Mahomedans not to join the army. He says he supported the resolution and is still in favour of it

Sd. S. M. TALATI,

29-9-1921.

City Magistrate, Karachi.

Certified that the above examination of the accused No. 5 Nisar Ahmed has been taken in my presence and in my hearing and contains a full and true account of the statement made by him.

Dated this 29th day of September 1921.

Sd. S. M. TALATI,

City Magistrate, Karachi.

TRIAL OF ALI BROTHERS & OTHERS.

(Note.—This statement of Moulvi Nisar Ahmed as given below does not appear on the Court record, but has been taken down by a shorthand reporter). Compiler.

Examination of accused No. 5 Nisar Ahmed.

Q. Were you present at the Khilafat Conference held in Karachi?

A. I shall say everything in my statement.

Q. Did you support the 6th resolution?

A. I shall say this in my statement.

Q. Is the signature appended to the Mutafigua Fatwa with your consent?

A. Yes.

Q. Have you anything to say regarding the depositions of the witnesses?

A. I want to cite in the beginning a text from the Koran in support of my participation in the passing of the resolution. Thus says the Kuran: "No faithful can ever help the non-faithful against Muslims. Whoso doth so is a Kafir". I congratulate my revered friend who presided over the last Conference and also those who proposed it, seconded and supported it previous to me. I only regret that I was unfortunate to have been its fourth supporter.

Reading another line from the Kuran he said "No Muslim can remain in the army nor allow any other to remain there". I did support the resolution and am ready to do it even now and if I am hanged, even my body will then support it.

(Sd). S. M. TALATI,

29-9-21.

City Magistrate, Karachi.



IN THE COURT OF THE CITY MAGISTRATE, KARACHI

Case No. of the General Calendar for 1921.

THE KING EMPEROR

VERSUS

Mahomed Ali and Others.

Examination of the accused No. 6 Bharti Krishna Tirathji.

Q. Were you present at the All India Khilafat Conference held in Karachi on 9th July 1921?

A. Accused refuses to stand up and answer questions put to him and hence his examination is closed here.

(Sd). S. M. TALATI,

29-9-21.

City Magistrate, Karachi.

Certificate to be attached to the examination of an accused person.

(Sections 364 of C. P. C.)

Certified that the above examination of the accused No. 6 Bharti Krishna Tirathji has been taken in my presence and in my hearing and contains a full and true account of the statement made by him.

Dated his 29th September 1921.

Sd. S. M. TALATI,

City Magistrate, Karachi.

(Note:—This statement of Bharti Krishna Tirathji Shri Shankar Acharya as given below does not appear on the Court record but has been taken down by a shorthand reporter). Compiler.

STATEMENT OF ACCUSED No. 6, BHARTI KRISHNA
TIRATHJI SHANKAR ACHARYA.

Magistrate. Will you please get up and reply to my questions?

Shankar Acharya. Our sacred books and the rules of Sanyas do not allow us to stand up before any human being but our Spiritual Gura. I belong to Sanyas. We Senyasis can go to jail, we can even

TRIAL OF ALI BROTHERS & OTHERS.

lose our heads but we cannot break the rules of Sanyas. My failing to make a written statement or an oral statement does not matter so much, but my failing under the Sanyas matters much. This is interference with our religious liberties and with our religious principles. I have otherwise no objection to giving my statement but at the same time I cannot disregard the rules of Sanyas.

Magistrate. I have heard you sufficient.

Shankar Acharya. But I want to let the public know of it otherwise they might misunderstand matters. We cannot voluntarily break the rules of Sanyas. Moreover, there was no evidence adduced against me whatsoever in this Court. May I know if it has been recorded? Absolutely none.

Shankar Acharya asked the Court to record what he had said above, but the magistrate replied that he refused to hear him unless he stood up first. The accused after all refused to stand up.

Shankar Acharya again asked:—Is there any section by which I will be compelled to stand, if I want to make my statement which shall be only regarding the case?

Magistrate. It is my order.

Mr. Mahomed Ali. Mr. Magistrate, does it look to you well that as a Sanyasi he should be deliberately made to refuse to respect his laws? You also have your own religion to respect.

The Magistrate ordered Mr. Mahomed Ali to sit down. The magistrate did not record what Shankar Acharya was saying, whereon the latter remarked. "I want to say that I have to make a statement confining myself to the evidence only and do you want to compel me to stand up and give the statement?"

Magistrate. I have already recorded it that you refuse to answer questions standing.

SHAUKAT ALI'S STATEMENT.

IN THE COURT OF THE CITY MAGISTRATE, KARACHI.

Case No. of the General Calendar for 1921.

THE KING EMPEROR.

VERSUS

Mahomed Ali and Others.

Examination of the accused No. 7 Shaukat Ali.

Q. Were you present at the All India Khilafat Conference held in Karachi on the 9th July 1921?

A. Yes. There has not been a single Khilafat Conference in India which I have not attended. I am sorry I did not speak on that Resolution. I am in entire sympathy with it.

Q. Have you any thing else to say about the evidence recorded against you?

(Note:—The accused goes on abusing Government and giving a political lecture which has nothing to do with this case and is not recorded).

(Sd). S. M. TALATI,
29-7-21. City Magistrate, Karachi.

Accused is again requested to speak and he again speaks of political matters and hence it is not taken down.

(Sd). S. M. TALATI,
29-7-21. City Magistrate, Karachi.

Certificate to be attached to the examination of an accused person.

(Section 264 of the Code of Criminal Procedure.)

Certified that the above examination of the accused No. 7 Shaukat Ali of Rampur has been taken in my presence and in my hearing and it contains a full and true account of the statement made by him.

Dated this the 29th day of September 1921.

(Sd). S. M. TALATI,
City Magistrate, Karachi.

TRIAL OF ALI BROTHERS & OTHERS.

(Note:—This examination of Mr. Shaukat Ali as given below does not appear on the record of the Court proceedings but has been taken down by a shorthand reporter). Compiler.

Examination of accused No. 7, Mr. Shaukat Ali.

Q. Were you present at the All India Khilafat Conference ?

A. There has not been a single Khilafat Conference in India that I have not attended.

Q. At the Conference was the 6th resolution passed which is exhibited here, and did you support it ?

A. I supported that resolution and I am still in entire agreement with what is stated therein. I am only sorry that I did not speak on this resolution at the Conference at Karachi, although I have delivered hundreds of speeches on Khilafat everywhere in India.

Q. Do you like to say anything else ?

A. Heaps. I go on speaking and you can only record what you think is relevant to the case. Upto this time I was under the impression that there was still some justice in the British reign. I did not believe in the British Courts already, but today I am seeing that they are a mere farce. I believe that theatre shows are much better than these Courts. It is really unfortunate for us Mahomedans, Hindus, Parsis and all communities of India that we have anything to do with this Government.

Magistrate. I am not here to hear your lectures.

Shaukat Ali. Then you can send me to gallows. I have delivered hundreds of speeches and I care not to deliver any to you. I am a Mussalman. My loyalty to this Government was only conditional. I am unfortunate to be in a land at present day where I am led against the commandments of our Holy Quran and where the blood of slaves is flowing through the veins of our brethren. After we brothers came out of jail we gave the Government clearly to understand what our demands were and what we meant. We sent many deputations to the Viceroy, we sent Mahomed Ali to

SHAUKAT ALI'S UNRECORDED STATEMENT.

England and spent two lacs of rupees and we also sent Chetani who has returned, and now also we want to say to Government to respect our religious faith. I am sorry for such of my countrymen and my Indian brethren who are serving under such a satanic Government and cutting the throats of their country brethren.

Magistrate. You are simply abusing Government and talking of political matters.

Shaukat Ali. You have been abusing us for all these days and so has the Public Prosecutor been doing the same.

Mr. Mahomed Ali intervened. "Mr. Magistrate have you no belief in God. Do you not believe in law? Have you not got your own religion? Will you not allow us to place before you what the Islamic law is?

Magistrate. Will you sit down?

Mahomed Ali. I refuse to sit.

Magistrate. I again tell you to take your seat.

Mr. Mahomed Ali. I refuse to sit, you can ask your Police or Military to make me forcibly sit. Is there any law under which you can compel me to sit? (A police official here entered in and asked Mr. Mahomed Ali to sit down but he still declined to do so and took seat of his own accord only when the police officer left).

Shaukat Ali. Have you to give justice or not?

Magistrate. If you speak patiently I shall hear you.

Shaukat Ali. I am a Mussalman. My loyalty to this Government was conditional. I respected this Government so long as we Muslims were free to live our lives peacefully. We made every human effort to make this Government understand what the Islamic law was. Immediately after coming out of jail, I as the President of the First All India Khilafat Conference held at Amritsar wrote to the Viceroy and asked him to receive a deputation. We carried the deputation to the Viceroy consisting both of Hindus and Mahomedans and a large number of Divines in order to put before him

the Muslim point of view. We tried to make him understand the Islamic law to our level best. The Viceroy made a most sympathetic reply and made a goody goody speech.

(The magistrate here interrupted Mr. Shaukat Ali, to which the latter observed. "I assure you Mr. Magistrate, that I do not mean anything personal to annoy you, but I have got my own way of speaking. I am not a Barrister like Dr. Kitchlew nor a man of Mahomed Ali's calibre. I want to explain to you the Islamic law in words plain and simple. Only hear me patiently)."

Mr. Shaukat Ali continued.—"When we saw the Viceroy, he gave our deputation a passport and all kinds of facilities and gave us good wishes too. The deputation went to England on pain of of much expense. We saw the Prime Minister, we saw every body—explained to them our Islamic law,—but we found that the English Cabinet was so drunk with its unexpected victory, that instead of giving us a patient hearing and redressing our wrongs; it disregarded our demands. After six months we came back. In the mean time we Muslims were doing our utmost in India. Then the Central Khilafat Committee with the full concurrence of the Ulema and the leaders of the country thought no other possible course left but to start non-co-operation movement with this Government. I shall now tell you what the non-co-operation movement has to do with the 6th Resolution. It means that if this Government does not withdraw control over the Sultan and the domination over the Holy Places, then the Mussalmans and thank God, Hindus, Parsis and Christians have also come to their assistance, would have nothing to do with this Government. The non-co-operation movement was started from the first of October last, and personally I like to tell you that from August last I am a free man. I do not care for Navy, I do not care for Army. I am quite happy and healthy.

I am a subject of God and a free citizen of India. I do not want the King, nor this Court nor the Army. Even if I am prosecuted to death I shall be happy. Today that the Government is

SHOUKAT ALI'S UNRECORDED STATEMENT.

prosecuting me, the foundation of Free India is definitely laid. It is my duty as a Mussalman not only to free myself alone but also to carry this message to every Mussalman in this country.

Q. Was the Gokak resolution also supported by you?

A. I do not want you to ask me any questions about Gokak, but about the Islamic law. These questions are foolish. You might as well commit me to Sessions without listening to my statement. The Sessions court will send me to jail, but I do not care. (He read a quotation from the Koran). "Whoever kills another Mussalman intentionally, his punishment is hell ever-lasting and God's wrath and curse shall be on him". Queen Victoria and King Edward have declared in proclamations announcing religious freedom, but when the matter comes to action we are punished. It is my duty to carry the message of Islamic duty. I do not care whether the soldiers or others listen to me or not. Mr. Magistrate, you might hang me on earth or sky. Do what you like I do not care. I cannot be friendly towards the enemies of Islam.

Magistrate. If you go on in that strain, I cannot allow you to do so.

Shaukat Ali:—What is that strain? You are insulting our faith by not allowing me to speak. What can I do? God teaches me that. I do not care for you. What are you here? You are a mere gramophone. I am speaking on my case. I have now come to the conclusion that this Government is a mockery and a scandal. Damn this Court, damn this Government, damn this prosecution and damn this whole show, and then he heavily sat down in his chair.

(There was conspicuous stir in the Court).

29-9-21.

—:O:—

TRIAL OF ALI BROTHERS & OTHERS.

ARGUMENTS OF THE PUBLIC PROSECUTOR, Mr. ELPHINSTON.

The accused have considerably lightened my work. On their own statements prima facie case has been made out against them. It is not necessary therefore for me to deal with the evidence in detail. The case centres round the 6th Resolution passed at the All India Khilafat Conference held at Karachi from 8th to 10th July 1921. The whole text of this resolution is given in the Government Order sanctioning the prosecution. It has been proved by the two Urdu shorthand writers that the above resolution was passed. It has also been borne out by the Gokak resolutions, copies of which were found in the kit of Mr. Mahomed Ali accused No. 1. The speeches delivered by the accused Nos. 2, 3 and 5 had been laid before Court and those speeches have been sworn to by the Urdu shorthand writers as being correct. It has also been borne out by Press reports. The reports given in the issues of the 11th July of the local papers though short, support the report of the Urdu shorthand writers. The two reporters of the Press, who are Sindhi speaking gentlemen, have interpreted the words "remaining in the army" as "serving in the army". This is doubtlessly due to the fact that accused No. 4 Pir Ghulam Mujadid, when translating the resolution in Sindhi, used the words "fouj me noukri karna". It is true that in the subsequent report published in the New Times of 18th July those words were left out. That was doubtlessly due to a wise caution as the matter was then being given a considerable attention. There is therefore no question as to wording of the resolution and it has not been seriously questioned.

The evidence regarding the conspiracy is also equally clear. Accused 1 to 6 took part in passing of the resolution. No. 1 intended to read it out, Nos. 2 to 6 inclusive spoke in support of it. Accused No. 2, 4, and 5 signed the Mutafigua-Fatwa which contains an announcement similar to that contained in resolution No. 6. The name of accused No. 5 also appears as a supporter of the second resolution in the proceedings of the Ulema-ul-Hind. See Ex. 43 (b) in

this Court and produced by the Deputy Commissioner of C. I. Police, Bombay. Accused No. 7's connection is clear. His arrival at Karachi with accused No. 1, his departure with No. 3 from Karachi and his residence at the Kanya Shala with them the whole time he was here, are amply proved. It has also been clearly shown that accused Nos. 1, 3, and 7 as well as Venkatraman, accused No. 6 were present at the subject Committee Meeting. Accused No. 7 as secretary of the Central Khilafat Committee meeting was a member of the Subjects Committee. He was heard speaking at it. His speeches elsewhere at Naushahro and at Poona have been put in and exhibited here which show that he has been taking an active part elsewhere in the same conspiracy. Further, the Central Khilafat Committee of which he is Secretary, distributed about two hundred and forty copies of the Mutafiga Fatwa.

The attempt to seduce troops from their duty has been amply proved. The attempt by the members of this conspiracy to seduce troops has been completed by sending to soldiers of the Indian army leaflet—summaries of the Mutafiga Fatwa, which bears the name of accused No. 2, 4 and 5. This has been proved by the military witnesses in the witness box. This leaflet emphasises and brings out clearly the inducement to troops, contained in the Mutafiga Fatwa. In connection with the conspiracy to make this attempt I ask for a charge under section 120 B, read with section 131 of the Indian Penal Code, against all the accused.

The words of the resolution. "This meeting clearly proclaims that it is in every way religiously unlawful for a Musalman at the present moment to continue in the British Army, or to enter the army or to induce others to join the army" are a statement falling under Section 505 (a). That statement was made by accused No. 2 Mahomed Ali therefore I ask that the charge under Section 505 be framed against him. This statement was made in pursuance of a conspiracy to which the other accused were parties, so a charge against accused No. 2 to 7 be framed under Section 505 read with Section 109 Indian Penal Code.

TRIAL OF ALI BROTHERS & OTHERS.

Next the words "It is the duty of all Mussalmans in general of the Ulema in particular to see that these commandments are brought home to every Mussalman in the army", delivered as they were to a large Mahomedan audience including many Ulema, were an incitement to more than ten persons to commit an offence under Section 505 and or 131 Indian Penal Code. These words are a part of the Resolution read out by accused No. 1. Therefore a charge under Section 117 (inciting more than ten persons to commit an offence) should be framed against accused No. 1; and as this offence under Section 117 Indian Penal Code was committed in pursuance of a conspiracy to which the other accused Nos. 2 to 7 were a party, they are therefore liable under Section 109 read with Section 117.

An offence under Section 131 Indian Penal Code is only triable by a Sessions Court. It is therefore necessary to commit this case to the Court of Sessions.

CHARGE.

I S. M. Talati, Magistrate First Class, hereby charge you (1). Mahomed Ali of Rampur, (2). Moulvi Hussain Ahmed of Deodad, (3). Dr Saifuddin Kitchlew of Amritsar, (4). Pir Ghulam Iqbal of Matiyari, (5). Moulvi Nisar Ahmed of Cawnpore, (6.) and (7.) Arti Krishna Tirathjee Alias Venkatraman, (7). Shoukat Ali of Rampur as follows :—

That you all the seven accused between the months of February and September 1921, both inclusive, at Karachi and at other places in British India were (with others) parties to a criminal conspiracy to seduce Mahomedan officers and soldiers in the Army of His Majesty the King Emperor, from their duty and thereby committed an offence punishable under section 120B read with section 131 of the Indian Penal Code and within the cognizance of the Court of Sessions at Karachi; and further that you Mahomed Ali on or about the 1st day of July 1921, at Karachi made a statement to wit, that it is in every way religiously unlawful for a Mussalman at the present moment to continue in the British Army, or to enter the Army or to induce others to join the army"—with intent to cause or

CHARGE.

which is likely to cause Mussalman officers and soldiers in the army of His Majesty to disregard or fail in their duty as such, and thereby committed an offence punishable under section 505 Indian Penal Code and within the cognizance of the Court of Sessions, Karachi.

And further that you (accused two to seven inclusive) conspired with the said Mahomed Ali to commit the said offence under section 505 Indian Penal Code which he committed in pursuance of the conspiracy and you thereby committed an offence under section 505 read with section 505 Indian Penal Code and within the cognizance of the Court of Sessions, Karachi. And further that you Mahomed Ali, on or about the 9th day of July 1921, at Karachi abetted the commission of an offence under section 505 and section 131 Indian Penal Code, by more than ten persons, in that you stated at the India Khilafat Conference that "it is the duty of all the Mussalmans in general and the Ulema in particular to see that these religious commandments (referring to the words quoted above) are brought home to every Mussalman in the army" and thereby committed an offence under section 117 Indian Penal Code and within the cognizance of the Court of Sessions, Karachi.

And further that you (accused two to seven inclusive) conspired with the said Mahomed Ali to commit the said offence under section 117 Indian Penal Code, which he committed in pursuance of the conspiracy and you thereby committed an offence punishable under section 109 read with section 117 Indian Penal Code and within the cognizance of the Court of Sessions, Karachi.

(Sd). S. M. TALATI,
City Magistrate, Karachi.

29-9-21.

The within charge having been read over and explained to the accused aforesaid in a language that he understands viz English, Mahomed Ali of Rampur is asked if he has any defence to offer and he says "No".

(Sd). S. M. TALATI,
City Magistrate, Karachi.

1-10-21.

TRIAL OF ALI BROTHERS & OTHERS.

The within charge having been read over and explained to the accused aforesaid in a language that he understands viz Urdu, Asain Ahmed is asked if he has any defence to offer and says "No".

(Sd). S. M. TALATI,

0-21.

City Magistrate, Karachi.

The within charge having been read over and explained to the accused aforesaid in a language that he understands viz English, Saifuddin Kitchlew is asked if he has any defence to offer and says "No".

(Sd). S. M. TALATI,

0-21.

City Magistrate, Karachi.

The within charge having been read over and explained to the accused aforesaid in a language that he understands viz Urdu, Ghulam Mujadid is asked whether he has any defence to make which he says "No".

Sd. S. M. TALATI,

0-21.

City Magistrate, Karachi.

The within charge having been read over and explained to the accused aforesaid in a language that he understands viz Urdu, Asar Ahmed is asked if he has any defence to make to which he says "No".

(Sd). S. M. TALATI,

10-21.

City Magistrate, Karachi.

The within charge having been read over and explained to the accused aforesaid in a language that he understands viz English, Karti Krishna Tirathji is asked whether he has any defence to make, to which he says "No".

(Sd). S. M. TALATI,

10-21.

City Magistrate, Karachi.

The within charge having been read over and explained to the accused aforesaid in a language that he understands viz English, Iqbal Ali of Rampur is asked if he has got any defence to make and he says "No".

(Sd). S. M. TALATI,

10-21.

City Magistrate, Karachi.

MAHOMED ALI AND MAGISTRATE.

(Note:—After charge was framed, the following conversation took place between the accused and the magistrate. It does not form part of the Court record but has been taken down by a shorthand reporter). Compiler.

The charges as asked for by the Public Prosecutor were framed by the Magistrate and read out to the accused as soon as the Crown Counsel had dealt with the case. They were committed to the Court of Sessions to undergo their trial there.

Mahomed Ali. I want to avail myself of the promise made to me yesterday that I could make a statement at a later stage.

Magistrate. You cannot do it now.

Mahomed Ali. Have you changed your mind?

Magistrate. As soon as the the Counsel for the Crown had finished you should have got up to say what you had to say. Now it is finished. The charges have been framed.

Mahomed Ali. Perhaps the charge had been framed long ago. That is no concern of mine. What about my statement? How have you committed us to Sessions without reading my statement which has a bearing on the case?

Magistrate. I have seen three-fourths of it.

Mahomed Ali. How do you say it was three-fourths? There is still much left. I had only dealt with six pages of my rough notes. There are still 14 pages remaining.

The magistrate here observed that there should be no more discussion, whereupon Mr. Mahomed Ali said "I call this a farce. I am only sorry that you being an Indian, and a countryman of mine should have played a part in this dirty job".

Magistrate. I know it. You can sit down now.

TRIAL OF ALL BROTHERS & OTHERS.

Case resumed on 1-10-1921.

Magistrate. Before I take up the case Mr. Mahomed Ali, I would like to read to you in Urdu the charges against you. On Thursday the charges were read to you only in English. But as I understand three of you do not know English and as the translation of the charges was not read out to you on Thursday, I will get them translated to you in Urdu now.

Inspector Karamchand of the C. I. D. was asked by the Magistrate to read the charges in Urdu which he did. The accused were then asked if they would like to have copies of the charges. Mr. Mahomed Ali said that he required four copies in English and three copies of it in Urdu and the same were supplied to him.

Mr. Mahomed Ali:—to the Magistrate:—"I would like to draw your attention to a paragraph appearing in the Daily Gazette dated 30th September. 1921. It reads thus.

Forthcoming Sessions Trial.

"Mr. B. C. Kennedy, I. C. S. Judicial Commissioner of Sind, accompanied by Mr. D'Souza, Registrar of the Court of the Judicial Commissioner in Sind visited the Khalikdina Hall at about 10-45 a.m. yesterday, to see if the hall would be suitable for holding the Sessions trial. He was met by Mr. T. G. Elphinston, Public Prosecutor and Mr. Parsram Tolaram B. A., LL. B. Assistant Public Prosecutor, who took him round the hall and explained the arrangements that had been made for holding the Magisterial inquiry. The Judicial Commissioner appeared to be satisfied with the arrangements and implied that the Sessions trial in the case would take place in the hall. The date of the trial is not yet definitely fixed. It will take place either on October 11th or October 17th. It is understood that the Judicial Commissioner himself will try the case".

From this even a blind man would understand that the trial had already been fixed for. The case was still *sub judice*, the magisterial inquiry was not yet complete, the case had not been committed to the Sessions, why should then the Judicial Commissioner have come to see arrangements for the Sessions trial? I consider the present day British justice as a perfect scandal.

Magistrate. I am not concerned with what the Daily Gazette writes.

Mahomed Ali:—The Judicial Commissioner should be asked to enter the witness box and state on oath whether he did come here to see if the hall would suit him to hold the Sessions trial. I wonder why he did not send for carpenters to arrange for the scaffold.

Magistrate:—It is a pity that such a para should have appeared in the Press.

Dr. Kitchlew:—I want to draw your attention to the inaccurate reports appearing in the Press, particularly in the Daily Gazette. I find that the report in the Daily Gazette regarding my statement is absolutely false. Certain things have been attributed to me which I have never uttered. I find in it heaps of lies.

Magistrate:—None takes the reports of the Press as absolutely correct.

Dr. Kitchlew. I would like to mention that I have read the charge framed against us. From the beginning to the end there have been many irregularities which vitiate the proceedings of the Court. Of course, I may explain that while saying this I do not mean to put forward any defence, but as there are many irregularities in this case, it should be tried *de novo*.

Magistrate:—If you show me any point where the proceedings have been irregular, I will explain to you what it is.

Dr. Kitchlew:—The following are the four irregularities which vitiate the proceedings.

1. We were not told under what sections we were charged. We did not know what evidence was to be produced.

TRIAL OF ALI BROTHERS & OTHERS.

2. The charges had already been prepared before our statements were taken.

3. After P. P's speech you did not ask us whether we had to say anything.

4. You read out the charges immediately after Public Prosecutor's speech.

In my opinion the proceedings are null and void.

Magistrate:—As for as your objections go, you can take them in the Sessions Court.

Mr. Mahomed Ali:—Kindly take my objection on the record that Judicial Commissioner came and saw the Hall.

Magistrate:—Allright.

Public Prosecutor:—When the Judicial Commissioner came here, he stated more than once that he had come to see whether *in the event* of the case being committed to Sessions this hall would be suitable for holding the trial. He did not come here by any appointment with me or with the A. P. P. We were here in connection with these committal proceedings, and had no idea that he had intended visiting the hall. The Registrar asked what arrangements had been made regarding these committal proceedings and he was informed of the arrangements. Both the Judicial Commissioner and the Registrar spoke conditionally as to what would be done in the event of the case being committed to the Sessions.

Mahomed Ali:—The Judicial Commissioner should be put in the witness box. I want to make the matter clear. How am I to know what was in the mind of the Judicial Commissioner. One can easily detect the mark of a lawyer in the explanation offered by the Public Prosecutor. The whole conversation of the Judicial Commissioner himself was conditional. The condition as to the case being committed to the Sessions does not emanate from me.

Magistrate:—Day before yesterday you and your friends raised an objection, that Section 105 Indian Penal Code was applied to you in the warrant instead of Section 505. That is not so. I will show you

ORDER OF COMMITMENT.

the warrant.

{Shri Shankar Acharya wanted to see his warrant and on being shown remarked. "Some one seems to have tampered with this. I have taken out a copy and it contains Section 105).

Mr. Mahomed Ali:—In my notes also I have taken down Section 105. Surely the warrants seem to be tampered with. "1" has been changed into "5".

Magistrate:—There is only one more thing remaining. I want to ask you gentlemen if you have to produce any defence witnesses.,

Mr. Mahomed Ali:—We have absolutely no defence to offer nor have we to trouble the court about it.

Public Prosecutor:—Each accused should be asked whether he wishes to call any witness in defence.

Magistrate:—I have asked all collectively and all have replied through Mr. Mahomed Ali.

1-10-1921.

—:o:—

ORDER OF COMMITMENT.

Crown

Versus.

1. Mahomed Ali of Rampur.
2. Maulvi Hussain Ahmed.
3. Dr. Saifuddin Kitchlew.
4. Pir Ghulam Mujadid.
5. Maulvi Nisar Ahmed.
6. Bharti Krishna Tirathji Alias Venkatraman.
7. Shoukat Ali of Rampur.

In this case the complaint against the accused is under section 120 B. read with sections 131 i. e. of being parties to a criminal conspiracy to seduce Mahomedan officers and soldiers in the army of His Majesty the King Emperor from their duty and under section 505 Indian Penal Code read with sections 109 and 117 Indian Penal Code of making statement or abetting the making of a.

TRIAL OF ALL BROTHERS & OTHERS.

statement with intent to cause or which is likely to cause Musalman officers and soldiers in the army of His Majesty to disregard or fail in their duty as such officers and soldiers.

The complaint under section 505 Indian Penal Code is made under the authority of the Local Government whose order dated 31st August 1921 is exhibited and filed in the case. The facts are that on 9th July 1921, at a meeting of the All India Khilafat Conference accused No. 1 introduced a resolution that "it is in every way religiously unlawful for a Musalman at the present moment to continue in the British army or to enter the army or to induce others to join the army and it is the duty of all Musalmans to see that religious Commandments are brought home to every Musalman in the army". While introducing this resolution accused No. 1 stated as follows.

"Now at an extremely critical time a very important resolution is being moved which you should consider to be the essence of this Conference".

All the other accused were present at that meeting of the Conference where this resolution was put before the meeting. There were nearly 2000 persons present at the Conference before which [REDACTED] was proposed by accused No. 2 Hussain Ahmed. [REDACTED] on the resolution accused No. 2 amongst other things stated as follows:—

"At the time when Islam in other lands is involved in trouble, when the Khilafat is entangled, and when the Ulema of Islam and the religion of Islam are subjected to such a plight every now and then, what commandments should be issued about that. Koran says "O Muslims those who fight against you, those people who invade your country in overwhelming numbers, those people who want to deprive you of your liberty, those people who wish to destroy your prestige, your country, your wealth, your honour—those people who want to efface your religion from the face of the earth—you should oppose them and you should fight with them".

ORDER OF COMMENT

Again further he said "If the opponents of Islam oppose you in a body, fight against you, wish to destroy your country, your honour and religion, then it is similarly incumbent on you all to continue to oppose and to fight with them. The sum total of these verses particularly is, that when the Allied countries and European Nations together are desirous of destroying the Islamic Kingdom, and while committing various kinds of tyrannies, are devising such plans as may prove the destruction of not only Islamic Kingdom but the religion of Islam, in such circumstances you can yourselves know what both these verses mean and what religious commandments become applicable to you. In such a case when it is a great sin to show laziness or lethargy, how would it be lawful now to help the enemies of Islam in any way. Hence it is particularly forbidden in the Koran in various verses, not to help the enemy of Islam".

Further on accused has stated "Those people who are helping the Allies whether silently or by means of money or army or life in whatever way, they will come under this category"..... "When this thing is known that today Europe desires and the Allies also want that no Muslim power should continue on the face of the Earth, then in such circumstances a person who helps the Allies in any way, whether he makes others to join the Army or himself joins the army or helps by his actions, speech or writing, then he is in fact the enemy of Islam and the destroyer of the foundations of Islam..... Those people who thus help the Allies are the enemies of Islam by joining the army, they should consider whether they would continue to be Muslims or not".

Further on accused No. 2 stated "Certainly about those people who are aiding the enemies i. e. those who are working in the slave associations, whether you give subscriptions or cause others to join the army...he would also be one of them.... When you cause any one to join the army or when you yourself enter it, you should think what your condition will be simply for this very reason that you thus help the enemies of Islam. In such a circumstance is it law-

TRIAL OF ALL BROTHERS & OTHERS.

ful for any Musalman to get himself enlisted in the army which is openly ordered to fight against the Musalmans"?

Accused No. 2 concluded his speech as follows:—

"I therefore support the resolution in accordance with the verses and traditions which exist in this connection, and I say that it is incumbent on the Mussalmans to prevent all armies and all people from helping the Allies in this way".

Accused No. 4 Pir Ghulam Mujadid, translated the resolution in Sindhi in which he said, "This meeting decides that it is 'Haram' for the Muslims to enlist in the British Army". He made a speech in support of the resolution in Sindhi.

Accused No. 3 Dr. Saifuddin Kitchlew also supported this resolution and during the course of his speech he stated, "This resolution was perhaps first moved in the same terms at Gokak, a place in the Karnatak, by my honoured brother the president, and I had the proud privilege to second it. Today again the same resolution is being moved and placed before the Musalmans of the world from the pandal of the All India Khilafat Conference".

Further on he stated, "We want to make a clear declaration of War before the whole world, saying, if by December you do not accept our ultimatum then we shall ask you to cross the seven seas with all your bag and baggage. Much is said against joining the army and it is said that service in it is not lawful. It is not unlawful from today but for a long time past. Such a service I say is not unlawful from today but from the very day when it was introduced in our country. But I declare again today, "O Muslim Soldiers, you should understand it well, that your Ulema have after carefully considering the religious laws, issued this Fatwa which they have explained in their speeches and today the Khilafat Committee also declares publicly that it has become quite unlawful for you Muslims to continue in the military service of the Government".

ORDER OF COMMITMENT.

Accused No. 5 Moulvi Nissar Ahmed also spoke on the resolution as follows :—

"It is known to you as well as to us that according to religion it is not lawful to have any connection with such a Government whose tyrannies are well known and which uses all sorts of devices it possibly can for spoiling the morality and faith of the people. To have any relation with such a Government is absolutely 'Haram' that is unlawful and particularly the military service. To join the army of such people, or not to join but to induce others to join, or not to induce others but to remain quiet when such a thing is happening is according to religion unlawful. Those who have heard these speeches have now come to know the religious commandments in this respect and now it is our duty to inform others who are not present and who have not heard it. Not for the reason that this Government has stood against the Angora Government but because of the past evils, the military service has become unlawful. Not to say of joining it, it does not look proper for Indian, particularly the Musalmans even to think of it or even dream of it".

"If we join the army today or if we do not join the army but persuade others to do so and thus side with those who want to demolish our Kaaba we will be only desecrating Madina. It is not all unlawful for us not to join the army".

Accused No. 6 Bharti Krishna Tirathji also supported this resolution and made a speech on it in English.

Accused No. 7 Shaukat Ali though present at the Conference had not spoken on this resolution.

After the speeches were over, accused No. 1, as President made his concluding remarks and said "This motion which is very important and involves great responsibility has been put before you. Now I wish that if you agree to pass it you should do so by standing". And accordingly the audience rose up and carried it unanimously amidst all sorts of cries.

TRIAL OF ALI BROTHERS & OTHERS.

Witness No. 1 Mr. Zamanshah Deputy Superintendent of Police and witness Mahomed Bux Ex. 6 Deputy Collector give evidence about their being present at the Conference when this resolution was passed and they state that the translation of the resolution as appearing in the Government Order to correct.

The evidence of Inspector Lakhte Hussain Ex. 11 is that he was present at the All India Khilafat Conference and took notes of all the proceedings in Urdu shorthand. He has produced his Urdu Shorthand notes of the speeches together with their correct transcripts in Urdu longhand which have afterwards been translated into English by Khan Bahadur Sayed Mahmud Shah, District Superintendent of Police, Thar and Parkar. Witness Lakhte Hussain says on oath that the accused actually said what he has taken down in his notes.

Sub Inspector Slan Bahadur Ex. 18 was also present at the Conference as Urdu shorthand writer and he has also produced his shorthand notes and their transcripts into Urdu longhand and he also says that the accused actually stated what he has taken down.

The Editor and Reporter of the "Daily Gazette" and the "New Times" have been called to put in the notes taken by their reporters from which an account was printed in the "Daily Gazette" and the "New Times".

The accused have not in any way challenged the correctness or the language of the resolution or of the accounts of their speeches. Though all the accused do not admit in so many words that such a resolution was proposed and supported at the meeting it is clearly admitted by Mr. Mahomed Ali and Dr. Kitchlew and Mr. Shankat Ali that such a resolution was passed at the All India Khilafat Conference and that they were in entire sympathy with it at that time and are still in entire sympathy with it even now. Thus there is not the least doubt that a resolution was passed at that meeting proclaiming that it was in every way religiously unlawful for a Muslim

ORDER OF COMMITMENT.

man at that moment to continue in the British Army or to enter the army or to induce others to join the Army.

The evidence of Col. Gwyer shows that soldiers of the Indian Army are enlisted on two forms and that they have to engage to serve for a definite period. He also says that printed leaflets have been received by Indian Soldiers of the Army by post in which they have been asked not to serve in the Army. The words in the leaflets are "all Government services which help Government are "Haram" specially those of the police and army".

Subedar Major Jiarani of 98 Infantry, Baroda, says that he used to check the post received for his regiment. He says that on 2nd or 3rd of August he got 12 envelopes of a similar nature and on opening one of them he found a printed leaflet in which it was declared unlawful for a person to continue in the army. And he further says that he handed over all the 12 envelopes to his commanding Officer.

Subedar Azizuddin of the Jat Infantry at Chaman says he also got 10 or 12 such leaflets addressed to soldiers of his regiment. He also made them over to his Commanding Officer.

Subedar Mahomed Hussain of Hazara Pioneers, Quetta says he also got similar leaflets by post in the last week of August 1921 and he further says that a week after that he saw four or five more covers containing such leaflets addressed to other Indian Officers of his regiment.

It is thus clear that in accordance with the resolution passed at the Khilafat Conference active steps were taken to dissuade Indian Soldiers from serving in the Army.

The resolution itself which was proposed and supported by the accused at the Khilafat Conference shows clearly that they had decided to take all steps to attempt to seduce officers and soldiers from doing their duty as such officers and soldiers and there is evidence in the case to show that in compliance with the resolution passed at the meeting, steps were actually taken to seduce the

TRIAL OF ALI BROTHERS & OTHERS

officers and soldiers of the Indian Army by sending them leaflets and proclaiming therein that it was unlawful or "Haram" for a Muslim to remain in the British Army.

Accused No. 1 has given a very lengthy verbal statement extending over 20 pages and supplemented it further by a typed statement of 14 pages. He admits that a resolution like the one embodied in the Government Order or in the terms similar to it was passed at the Khilafat Conference held in Karachi in July 1921. He also admits that he was President of the Conference and that he put this resolution before the meeting. The other accused also except accused No. 7 Shaukat Ali either admit or do not deny having spoken at the Conference on this resolution.

Accused No. 7 Shaukat Ali even now admits that he is in full sympathy with this resolution and is only sorry that he did not speak in the Conference on this resolution. The statements of accused No. 1 and accused No. 4 were taken down in full and are signed by them. The greater part of these statements is entirely irrelevant to the case and deals only with Islamic law on the point as laid down in the "Koran" and with lengthy discussions on political matters with abuses of Government and its servants. The rest of the accused refused to answer specific questions about the case which were put to them by the Court and said they also wanted to give statements in the same way as those given by accused No. 1 and 4. Their statements were entirely irrelevant as they were not answering to questions put to them by Court but were only lengthy discourses on religious and political matters and hence a note to that effect has been made at the end of the statements of these accused persons.

Accused No. 6 Bharti Krishna Tirathji refused to get up from his chair while answering the questions put to him by Court and hence he was warned that if he wanted to give a statement, he must get up before addressing the Court and that if he did not get up, his statement would not be recorded. He still persisted in addressing the Court sitting, saying his religion forbade him from getting up before

ORDER OF COMMITMENT.

any one except his "Guru" and hence his statement was not recorded and note to that effect has been made on his statement.

The evidence recorded in the case shows that there is prima facie case against all the 7 accused of being parties to a criminal conspiracy to seduce Mahomedan officers and soldiers in the army of His Majesty the King Emperor under section 120 B read with section 131 Indian Penal Code.

There is also a prima facie case against the accused under section 505 and 109 Indian Penal Code of making or abetting the making of a statement with intent to cause or which is likely to cause Mussalman officers and soldiers in the Army to disregard or fail in their duty.

There is also prima facie case against the accused that they abetted the commission of an offence under section 505 and or section 131 Indian Penal Code by more than 10 persons and thereby committed an offence punishable under section 117 Indian Penal Code.

As the offence under section 131 is exclusively triable by the Court of Sessions, the accused are all committed to the Court of Sessions, Karachi, to stand their trial for offences under sections 120 B, 131, 505, 109 and 117 Indian Penal Code.

Sd. S. M. TALATI,
City Magistrate, Karachi.

—:O:—

TRIAL OF ALL BROTHERS & OTHERS.

POST-COMMITTAL PROCEEDINGS IN THE COURT OF THE COMMITTING MAGISTRATE. (HELD IN JAIL PREMISES).

—:o:—

I having made S.A. state that my name is Abdul Ghani, my age about 30, my religion Musalman, my caste Rajput, my calling Superintendent Central Khilafat Committee, my residence, Bombay.

Examination in chief.

To the Public Prosecutor.

Ex. 41 is the stock register of the literature of the Central Khilafat Committee, Bombay. Mr. Kelly Deputy Commissioner of Police, Bombay came to search the office of the Central Khilafat Committee. He took this book Ex. 41 from the office. The entries in this book are made by the clerk in charge of the literature department. It is his duty to make entries in this book about the literature. Ex. 43 A. & B. and other connected documents were sent by me to the Mustafai Press for printing. These papers contain the Mutafika Fatwa also. The order on the title page for printing certain number of copies is signed by me. I signed the order on 14th February 1921 but it went to the Press later on. I ordered 5,000 copies but I got 2,000. I think I received the copies in the month of July. 1921. I do not know what was done with those copies. They were meant for distribution and I handed them over to the literature clerk. Ex. 42 is a page taken out by the Deputy Commissioner of Police from a book which seems to be the minute book of the Central Khilafat Committee. I took that book to be the minute book of The Khilafat Committee but I cannot say if the resolution recorded therein is correctly recorded or not. I know that Mr. Shaukat Ali is one of the Secretaries of the Central Khilafat Committee Bombay. Dr. Kitchlew is also. one of the Secretaries. The introduction in Ex. 43 B is written by Mr. Khatri who is also one of the Honorary Secretaries of the Committee. It

DEPOSITION OF MAHOMED.

is also well known that Mr. Mahomed Ali is also one of the members of the Committee.

No Cross Examination.

(Sd). S. M. TALATI,

City Magistrate, Karachi.

21-10-1921.

—————:O:—————

I having made S. A. state that my name is Mahomed, my father's name is Ahmed, my age about 35, my religion Mussalman, my caste Sheikh, my calling Printer, my residence, Bombay.

Examination in chief.

To the Public Prosecutor.

I got the papers Ex. 43 A & B and accompaniments for printing. I got these papers on the same day that Mr. Abdul Ghani signed the order as he sent for me in the office and gave them to me after signing the order. I delivered 2,000 copies on 21st July 1921 as appears from my delivery book (Ex.). I delivered the copies to Mr. Abdul Ghani. I have no other record except the delivery book to show when I printed these.

No Cross Examination.

(Sd). S. M. TALATI,

City Magistrate, Karachi.

21-10-1921.

—————:O:—————

I having made S. A. state that my name is Basarmal, my father's name is Javermal, my age about 28 years, my religion Hindu, my caste Amil, my calling Clerk, Commissioner's Office, my residence, Karachi.

Examination in chief.

To the Public Prosecutor.

I was present at the sittings of the All India Khilafat Conference in July last. I took shorthand notes of the speeches that

TRIAL OF ALI BROTHERS AND OTHERS.

were made in English. I took down shorthand notes of the speech of accused No. 6 on 9th July.

(Note.—The accused say that this witness was cited in the original complaint, but was not examined at all till the case was committed and that he is brought forward now at this last stage which requires explanation. The Public Prosecutor says that he understood that accused No. 6 stated in the committal proceedings that he had not spoken on the point of the resolution dealing with the army and therefore he is putting in the speech delivered on this resolution by this accused for the benefit of the Sessions Court and of the accused in order that the accused may adduce any arguments for it, and the Court may judge of the effect of the whole speech.)

The speech was on the 6th resolution I have brought my shorthand notes (Ex. A 5.) I prepared a transcript in long hand of those shorthand notes. I produce it (Ex. A 6.) Accused No. 6 actually said what I have recorded.

No cross examination.

(Sd). S. M. TALATI,

22-10-21

City Magistrate, Karachi.

—:O:—

I having made S. A. state that my name is W. Shanker, my father's name is , my age about 25 years, my religion Protestant, my caste Christian, my residence Central Jail, Waltiar.

Examination in chief.

To Public Prosecutor.

Accused No. 1 was brought to my jail on 14th September 1921 at 2-40 p. m. He was brought by the Deputy Inspector General of the C. I. D. and Railway Police. He came in a motor. His kit followed him in a motor accompanied by his servant and Inspector Abdul Karim. The Inspector told me to keep the kit safe till he got an order from the District Magistrate for its search. He said he suspected that there were some seditious papers in the kit. I had the kit locked away in my office. The next day the Inspector came.

ORDER OF COMMITMENT.

with a letter addressed to the Superintendent and the Superintendent told me to search the kit of accused No. 1 and to withhold all papers. I sent for accused No. 1 and in his presence I opened his leather trunk. I came across a lot of papers which I put on the table and I had a list prepared of those papers. I read each English paper and told the Deputy Jailor what to write in the list. Accused No. 1 himself told me what the papers were about. There were in all 50 items in the list and accused No. 1 signed it in my presence. (Ex 74) is the list that was prepared there. I put the papers and the list in my cash safe. The papers remained in the safe till 17th morning. On that morning the District Magistrate came to the jail and these papers were put before him. Accused No. 1 was also called there and was asked by the District Magistrate if the papers were his and he said yes. The District Magistrate then told accused No. 1 that the papers were seized and accused No. 1 told him that he would like certain papers to be sent to Begum Mahomed Ali. The documents were wrapped in a newspaper and were sealed by the District Magistrate. (Ex. 70) appears to be the same cover and the seal. The bundle was then handed over to the Inspector of C. I. D.

No Cross Examination.

(Sd). S. M. TALATI,

22-10-1921.

City Magistrate, Karachi.

Accused No. 1 Mr. Mahomed Ali says he wants to make a statement about the evidence and it is recorded below :—

We as non-co-operators have not cross-examined any witness for the prosecution nor we intend to take any part in the proceedings of the Court other than ascertaining what is the evidence that is being led against us and making statement with regard to our position. That is why I made no attempt to prove as I could well have done, that the Madras C. I. D. Inspector Abdul Karim who gave evidence in this Court had lied hopelessly, with regard to the papers in one

TRIAL OF ALI BROTHERS & OTHERS.

of the boxes. Now I want to explain that it was at my request that my clothes and bedding were sent after me to the jail and they were never searched under any search warrant at any time in my presence by any police officer or magistrate and were never seized under any law mentioned to me. The Jailor Mr. Shanker told me when I enquired about my clothes and bedding that they were brought to the jail, so far as I recollect, by my servant, and that I could take out any clothes I wanted. While the bedding was sent to me to my cell, the clothes box was detained in the Jailor's office as there was not enough room in the cell. The Jailor also told me that the Magistrate had ordered that a list should be made of all the papers in the box. I assisted the Jailor in having that list made, but when the day after the next I was to be sent under arrest to Karachi, the District Magistrate wanted to send the papers to the District Magistrate, Karachi, when I asked him, as I had asked the Jailor on the very day the list was made that some of them were very important and I wanted to send them to my wife as they referred to the accounts of Khilafat receipts sold by me and other account papers. When the District Magistrate said I could have them sent to my wife by the District Magistrate, Karachi, I asked him under what law he could refuse me the use of my own property. He could cite no law though he tried and the D. I. G. of Police Mr. Cunningham even suggested that the papers of an arrested person could be seized by the police. It was then that I pointed out to him that these papers were not found on me when I was arrested and that they were in a box which was sent to me at my own request for my clothes and bedding. If I could send away any kit of mine which I did not want, to my wife, I could also send away my papers which I did not want. Neither the Magistrate nor the police officer said that the search warrant had been issued or that the Magistrate had himself searched for these papers and in due course seized them. The whole story of the seizure or search is a pure concoction. The papers are not of the slightest importance to me if it is meant

MAHOMED ALI'S FURTHER STATEMENT.

that I was ever anxious to keep them from the evil eye of the police or the Magistracy. Why I referred to them in this Court was for three reasons (1). I wanted to know under what law I was being robbed of my property. (2). Because I wanted my wife to get the account papers and the Khilafat receipts still unsold. (3). Because I wanted the wording of the Gokak resolution for reference in my statement in this case, as I told the Court early in the proceedings.

I did not know that the Gokak resolution papers would be exhibited in this case and that so many witnesses will be troubled for such a small matter and would lie so abominably when I was myself ready to volunteer as I subsequently did when the Court asked me about these papers that they were mine, that they were in my kit and that one of them was partly and the other wholly in my handwriting and both were my composition. In spite of these witnesses and the lies of one, I still think I am entitled to the return of all these papers and if they are not returned to me I shall think that two District Magistrates are guilty of robbery.

Sd. MAHOMED ALI,

22-10-1921.

Sd. S. M. TALATI,

City Magistrate, Karachi.

22-10-1921.

—————:O:—————

TRIAL OF SHAUKAT ALI.
UNDER SECTIONS.
124 - A & 153 - A
I. P. C.
COMMITTAL PROCEEDINGS.

COMPLAINT AGAINST SHAUKAT ALI.

IN THE COURT OF THE DISTRICT MAGISTRATE, KARACHI.

—————:o:—————
R. R. Boyd, District Superintendent of Police, residing at
Karachi. ... Complainant.

VERSUS.

Shaukat Ali of Rampur. ... Accused.
Complaint under Sections 124-A and 153-A, Indian Penal Code.

—————:o:—————
The complainant above-named begs to state :—

1. This complaint is made under authority from the Local Government, whose order dated 31st August 1921 in this behalf deputing the complainant to make a complaint under these sections is filed herewith.

2. On the 10th July 1921, at the Khilafat Conference in Karachi the accused delivered a speech on the 8th Resolution to a large audience in which he attempted to bring into hatred or contempt and attempted to excite disaffection towards the Government established by law in British India.

3. In the course of the same speech on the 8th Resolution the accused also attempted to promote feelings of enmity or hatred between English and Indian classes of His Majesty's subjects.

4. Inter alia he alleged that there is no act of oppression or faithlessness which has not been committed in India by the Government. He referred to the English as the enemy of Islam, religion and India. He said that the English were ungrateful for the assistance given by India during the War and instead of expressing gratitude, Government said that it would drive away the pride of India. He made many false allegations and insinuations and in particular alleged that on the occasion of the approaching Bakri Id Government would cause pieces of beef to be thrown into temples and pigs cut in pieces into Masjids, and would say that Mahomedans had thrown the beef and Hindus the pigs there.

TRIAL OF ALL BROTHERS & OTHERS.

5. The accused has clearly committed offences under both sections 124-A and 153-A, Indian Penal Code, and the Complainant prays that the accused may be dealt with according to law.

(Sd). R. R. BOYD,

Karachi, September 1921.

Complainant.

The following are witnesses:—

1. Inspector Lakhat Hussain, United Provinces Police.
2. Sub Inspector Shah Bahadur, United Provinces Police.
3. Inspector Karam Chand Sind Police, Karachi, Naushahro.
4. Sub Inspector Mahmud Khan Sind Police, Naushahro Feroz.
5. Head Constable Zahurdin, Sind Police, Karachi.
6. Sub Inspector Datre, Bombay Presidency Police, Poona.
7. Sub Inspector Deshpande, Bombay Presidency Police, Poona.
8. Mr. Zaman Shah Mahbub Shah, Deputy Superintendent, Sind Police, at Karachi.

The names of further witnesses will be supplied if necessary.

(Sd). T. G. ELPHINSTON,

Karachi, September 1921.

Public Prosecutor for Sind.

ORDERS.

Ex. No. 2.

In pursuance of the provisions of section 196 of the Code of Criminal Procedure, 1898, the Governor in Council hereby authorises the District Superintendent of Police, Karachi, or any police officer deputed by him in this behalf, to lodge a complaint against Shaukat Ali of Rampur, temporarily resident in Bombay, under sections 124 A and 153 A of the Indian Penal Code, 1860, in respect of the speech delivered by the said Shaukat Ali on or about the 10th July 1921 in support of the eighth resolution moved at the All India Khilafat Conference held at Karachi about the 8th to 10th. July 1921.

By order of His Excellency the Governor in Council.

Dated at Poona, this 31st day of August 1921.

(Sd). J. CRERAR.

Secretary to the Government of Bombay,

Home Department (Political).

DIARY OF THE CASE.

This 28th day of September 1921.

At a Criminal Court held before S. M. Talati Esquire.

City Magistrate, Karachi.

The Magistrate proceeds with the trial of case No. 996 of the Criminal Calender for 1921.

No. 1.

Name. Shaukat Ali of Rampur.

From what officer received
and date when received.

Received in police custody as
he was already undergoing
another trial.

Accused present in custody. As another case against the accused occupied the whole day this case is adjourned to 29th September 1921. Accused remanded in custody.

(Sd). S. M. TALATI,

28-9-21.

City Magistrate, Karachi.

—:o:—

Accused present in custody.

Statement of Mr. Boyd	...	...	Ex. No. 1.
Order of Government sanctioning prosecution			Ex. No. 2.
Statement of Lakhat Hussain	...	...	Ex. No. 3.
Urdu speech made by Shaukat Ali on 8th Resolution on 10th July 1921		...	Ex. No. 4.
Statement of Shah Bahadur	...	...	Ex. No. 5,
Urdu speech made by Shaukat Ali taken by Shah Bahadur	...	...	Ex. No. 6.
Statement of Zaman Shah	...	...	Ex. No. 7.
Statement of Karam Chand	...	...	Ex. No. 8.
Notes taken of two speeches of Shaukat Ali at Naushahro on 11th July 1921 filed in another case as Ex-27	...	...	Ex. No. 9.

TRIAL OF ALI BROTHERS & OTHERS.

Statement of Mr. Burns ...	...	...	Ex. No. 10.
Notes taken by Daily Gazette reporter			
Teckchand of the speech of Mr. Shaukat			
Ali on 11th July 1921	....	...	Ex. No. 11.
Daily Gazette dated 11th July 1921 articlee			
on page 4	....	...	Ex. No. 12.
Statement of Teckchand...	...	...	Ex. No. 13.
Statement of Mr. Mahomed Shah..	...	...	Ex. No. 14.
True Translation of Ex. 4	....	...	Ex. No. 15.
Translation of Ex. 6	....	...	Ex. No. 16.
Translation of Ex. 9th and 27th in other case			
in which there are 7 accused	....	...	Ex. No. 17.
Translation of speech in Ex. 56 in the case of			
7 accused	...	...	Ex. No. 18.
Statement of Narain Ganesh	...	....	Ex. No. 19.
Notes in Maharati of Urdu speech made by			
Shaukat Ali	...	...	Ex. No. 20.
English translation	...	...	Ex. No. 21.
Statement of Tribbak	...	...	Ex. No. 22.
Maharati notes of the speech of Shaukat Ali			
made by him on 6th August 1921	...	...	Ex. No. 23.
English translation	...	....	Ex. No. 24.
Examination of accused	....	...	Ex. No. 25.
Charge	...	....	Ex. No. 26.
Plea	...	....	Ex. No. 27.
Order of commitment	...	....	Ex. No. 28.

Sd. S. M. TALATI,
City Magistrate, Karachi.

29-9-21.

:O:_____

For the crown.

Ex. No. 1.

I having made S. A. state that my name is R. R. Boyd, my age about 41 years, my religion Christian, my caste Church of England, my calling District Superintendent of Police, my residence Karachi.

DEPOSITIONS OF LAKHAT HUSSAIN AND SHAH BAHADUR.

To Public Prosecutor.

I have filed this complaint under the authority of the Local Government. I produce the order (Ex. 2).

No Cross Examination.

(Sd). S. M. TALATI,
City Magistrate, Karachi.

—:O:—

For the crown.

Ex. No. 3.

I having made S. A. state that my name is Lakhat Hussain, my father's name Tasadukh Hussain, my age about 40 years, my religion Mussalman, my caste Sayad, my calling Police Inspector C. I. D., my residence Allahbad.

To Public Prosecutor.

I was present at the Khilafat Conference Karachi on 10th July 1921. Accused Shaukat Ali moved the 8th resolution there and made a speech on it. He spoke in Urdu.

I am accustomed to take down speeches in Urdu shorthand. I took down the speech of the accused in shorthand. I made a true transcript of my shorthand notes I produce it (Ex. 4). Accused actually said what I have recorded there. I have brought my shorthand notes also here.

No Cross Examination.

(Sd). S. M. TALATI,
City Magistrate, Karachi.

29-9-21.

—:O:—

For the crown.

Ex. No. 5.

I having made S. A. state that my name is Shah Bahadur, my father's name Khan Bahadur, my age about 35 years, my religion Mussalman, my caste Pathan, my calling Sub Inspector C. I. D., my residence Allahbad.

To Public Prosecutor.

I was present at the Khilafat Conferenc Karachi on 10th July

TRIAL OF ALI BROTHERS & OTHERS.

1921. There the accused delivered a speech on the 8th resolution. He spoke in Urdu. I am accustomed to take down Urdu speeches in shorthand.

I took down the speech of the accused in Urdu shorthand at the meeting. I have prepared a true transcript of my Urdu notes. I produce it (Ex. 6). The accused actually said what I have recorded there. I have brought my shorthand notes here for inspection if required.

No Cross Examination.

(Sd). S. M. TALATI,

29-9-21.

City Magistrate, Karachi.

—————:o:—————

For the Crown.

Ex. No. 7.

I having made S A. state that my name is Zaman Shah, my father's name Mahomed Shah, my age about 40, my religion Musalman, my caste Ashmir, my calling Deputy Superintendent Police C. I. D., my residence Karachi.

To Public Prosecutor.

I was present at the All India Khilafat Conference when accused made a speech. There were about 2,000 to 3,000 persons present.

The speech of the accused caused much excitement among the audience.

No Cross Examination.

(Sd). S. M. TALATI,

29-9-21.

City Magistrate, Karachi.

—————:o:—————

For the Crown.

Ex. No. 8.

I having made S. A. state that my name is Karamchand, my father's name Ramlal, my age about 29, my religion Hindu, my caste Khatri, my calling Inspector C. I. D., my residence Karachi.

DEPOSITIONS OF KARAMCHAND AND BURNS.

To Public Prosecutor.

I was present at Naushoro Feroz on 11th July, when accused delivered speeches there. He delivered two speeches there. Accused spoke in Urdu I am well acquainted with Urdu. His speeches were translated into Sindhi. The first speech was translated sentence by sentence and of the 2nd speech only a summary was given. I am accustomed to taking notes of speeches. I took notes of both the speeches.

Note —The notes have been already exhibited in the other case and are put in the case (Ex. 9).

I prepared a fair copy of those notes. Accused actually said at the meeting what I have recorded in my notes. About 500 persons were present at the Conference. Half were Hindoos and half Mahomedans.

These speeches caused excitement among the audience. I was deputed from Karachi to attend this Conference.

No Cross Examination.

(Sd). S. M. TALATI,

29-9-21.

City Magistrate, Karachi.

For the Crown.

Ex. No. 10.

I having made S. A. state that my name is W. R. Burns, my age about 50, my religion Christian, my caste Church of England, my calling Journalist, my residence Karachi.

To Public Prosecutor.

I am assistant Editor of the Daily Gazette. My reporter attended the proceedings of the All India Khilafat Conference on 10th July 1921. His name is Teckchand Mirchandani. I have got his notes of the speech of Mr. Shaukat Ali, on the 2nd resolution of the day. I produce these notes (Ex. 11). I published an account of accused's notes in my issue of the 11th July 1921. I produce a copy of the Daily Gazette of 11th July, and at page 4 accused's speech is printed (Ex. 12).

No Cross Examination.

Sd. S. M. TALATI,

29-9-21.

City Magistrate, Karachi.

TRIAL OF ALI BROTHERS & OTHERS.

For the Crown.

Ex. No. 13.

I having made S. A. state that my name is Teckchand, my father's name is Hemandas, my age about 29, my religion Hindu, my caste Amil, my calling Head Master New High School, my residence Karachi.

To Public Prosecutor.

I attended a meeting of the All India Khilafat Conference on the evening of 10th July 1921. I took notes of the speech of the accused of what I could hear of it, and then I submitted my notes to Mr. Burns. Ex. 11 are the same notes.

No Cross Examination.

(Sd). S. M. TALATI,

29-9-21.

City Magistrate, Karachi.

—:O:—

For the Crown.

Ex. No. 14.

I having made S. A. state that my name is Mahomed Shah K. B., my father's name Nawabshah, my age about 43, my religion Mussalman, my caste Sayad, my calling District Superintendent Police, my residence Thar Parkar.

To Public Prosecutor.

I have prepared a true translation in English of the speech of the accused given at All India Khilafat Conference as reported by Inspector Lakhat Hussain. (Ex. 4) is the paper which I translated I produce the translation (Ex. 15).

I also prepared a true translation of the notes of the same speech as taken by S. I. Shan Bahadur. I produce that also (Ex. 16) I made this translation from (Ex. 6).

I have also prepared translation of two speeches delivered by the accused at Nausharo Feroz and as reported by Inspector Karamchand.

I produce the translation of the morning speech. (Ex. 17). The evening speech translation has already been put in the other case (Ex. 18).

No Cross Examination.

Sd. S. M. TALATI,

City Magistrate, Karachi.

DEPOSITIONS OF NARAYEN AND TRIMBAK.

For the Crown.

Ex. No. 19.

I having made S. A. state that my name is Narayen, my father's name is Ganesh Joshi, my age about 38, my religion Hindu, my caste Brahmin, my calling Inspector of police C. I. D., my residence Poona.

To Public Prosecutor.

I attended a meeting at Bhagalkot, District Bejapur on 6th August where accused delivered a speech.

Accused spoke in Urdu. The speech was translated in to Canarese, sentence by sentence.

I know Marathi shorthand. I took down the speech in Mahrati shorthand. As each sentence was given there was time for recording it. I have trascribed shorthand notes into Mahrathi longhand correctly. I produce it (Ex. 20).

I have made true translation of those notes in English Ex. 21. I have got my original shorthand notes of the speeches here for inspection. About 8,000 persons were present there, of which 30 P. C. were Mahomedans and rest were Hindus. The audience threw off their foreign clothes during that speech. There was soms excitement at the time.

No Cross Examination.

Sd. S. M. TALATI,

C. M. Karachi.

1-10-21.

-----:O:-----

For the crown.

Ex. No. 22.

I having made S. A. state that my name is Trimbak, my father's name Bhikhajee, my age about 36 years, my religion Hindu, my caste Bhawsal, my calling Sub Inspector Police C. I. D., my residence Poona.

To Public Prosecutor.

I attended the meeting at Bhagalkot in August last when accused made a speech there. He delivered the speech in Urdu. I

TRIAL OF ALI BROTHERS & OTHERS.

know Mahrathi shorthand. I took down the speech in Mahrathi shorthand as far as I could understand Urdu language. *The speech was translated sentence by sentence in Canarese for the benefit of the audience. I have transcribed my shorthand notes, I believe correctly into Mahrathi longhand. I produce the Mahrathi transcript of my shorthand (Ex. 23). When I could not decipher my notes, I put down crosses. I have prepared a true translation in English of my Mahrathi as well as I could. (Ex. 24). I have got my Mahrathi shorthand notes for inspection if desired.

No Cross Examination.

(Sd). S. M. TALATI,
City Magistrate, Karachi.

29-9-1921.

—————:O:—————

EXAMINATION OF SHAUKAT ALI.

IN THE COURT OF THE CITY MAGISTRATE,
KARACHI.

Case No. 996 of the general calendar for 1921.

THE KING EMPEROR.

VERSUS.

Shaukat Ali.

Ex. No. 25.

Examination of the accused.

Q. Did you make the speech at the All India Khilafat Conference in Karachi on 10th July?

A. I will give an answer to it when I make my statement.

Q. Have you anything to say about the witnesses or the evidence recorded today?

A. Since the last 21 months, I have been travelling thousands of miles and collecting lakhs of rupees for the Khilafat. I did all this service to the Khilafat, thinking it an offering of prayers to my Maker.

In all these speeches I have been asking Government to evacuate the sacred places of Islam and Jazirat-ul-Arab, restore the dignity and the temporal power of the Khalif if this Government wanted that 8 Crores of God fearing Muslims should form part of this Empire. In all my speeches I have always said that if this Government does not satisfy us over the Khilafat question, give us justice about Punjab and give us full and complete Swaraj and that if this Government did not do all this, it will be my bounden duty as God fearing Mussalman and an Indian to do all I can to destroy this Empire. I want to say again that as a Muslim it was incumbent on me to come to this decision. My loyalty to Government is conditional. As long as I have full freedom of faith and conscience, I gave my allegiance to the King.

The minute Government interfered with my faith and conscience, ipso facto my allegiance to the King and Government was

TRIAL OF ALI BROTHERS & OTHERS.

withdrawn. I give a warning that if the Government does not satisfy us over the Khilafat question and over the Punjab and grant us Swaraj then Government goes its way and we go our way.

There is war today between us and Government and if God willing, I hope Government will accept our demands and give us satisfaction when there will be peace; otherwise there would be a bitter war which will be decided when all the 33 crores of Indians are dead or the one lakh of British People are driven out.

As a Mussalman after reading the holy Koran carefully and consulting the learned divines, I have come to this conclusion that there was no option for me except to come to this decision. I want to say that I served this Government faithfully and honestly for 17 years, lived as a personal friend of a large number of Englishmen and women as a member of the superior grades of the Opium Department. I don't want to say whether the speeches put in, in this case correctly represent what I said; but the above statement has always been the trend of my speeches. I am a very humble co-worker with our great chief Mahatma Gandhi and so have been carrying out the policy marked out by the Central Khilafat Committee, Jamiat-ul-Ulma, the Congress and Mahatma Gandhi. I have been practising and preaching non-violent non-co-operation with the Government. Mahatma Gandhi's faith says he can only cheerfully give his own life and not take any body else's. I as a Muslim have the distinct commands of the Koran and the example of the Holy Prophet that for truth, righteousness and God's works, it is equally a good act to kill or get killed. There is a difference of faith between myself and Mahatma Gandhi but we Mussalmans have agreed that our policy is the same and we are all working together jointly on non-violent non-co-operation lines as practised by my Prophet for first 13 years at Mecca.

(Sd). SHAUKAT ALI,
29-9-1921.

(Sd). S. M. TALATI,
City Magistrate, Karachi.
29-9-21.

CHARGE.

Ex. No. 26.

Charge (Section 221, 222, 223 C. P. C.)

I, S. M. Talati Magistrate 1st Class, hereby charge you Shaukat Ali of Rampur as follows:

That you on or about the 10th day of July 1921 at Karachi delivered the speech reported in exhibits Nos. 4 & 6, at the Khilafat Conference in which you attempted to excite disaffection towards the Government established by law in British India and 2ndly that you on or about the same day and at the same time during the course of the same speech attempted to promote feelings of hatred or enmity between the English and the Indian classes of His Majesty's subjects and thereby committed offence punishable under sections 124-A and 153-A of the Indian Penal Code and within the cognizance of the Court of Sessions, Karachi.

And I hereby direct that you be tried by the said Court on the said charges.

Dated this 29th day of July 1921.

(Sd). S. M. TALATI,
City Magistrate, Karachi.

Ex. No. 27.

The within charge having been read over and explained to the accused aforesaid in a language that he understands viz English Shaukat Ali of Rampur is asked if he has any defence and he says. "No".

29-9-21.

(Sd). S. M. TALATI,
City Magistrate, Karachi.

—:o:—

ORDER OF COMMITMENT.

Crown.

Versus.

Shaukat Ali of Rampur.

In this case the complaint against the accused is under sections 124-A and 153-A of the Indian Penal Code of attempting to excite disaffection towards the Government established by law in British India and of attempting to promote feelings of hatred or enmity between the English and Indian classes of His Majesty's subjects.

The complaint is made under authority from Local Government whose order dated 31st August 1921 is filed and exhibited in the case.

The facts are that on the 10th of July 1921, accused delivered a speech at the Khilafat Conference at Karachi before a large audience in which amongst other things, accused stated that there was no act of oppression or faithlessness which has not been committed in India by the Government. He referred to the English as the enemy of Islamic religion and of India. He further said that the English were ungrateful for the assistance given by India during the war and instead of expressing gratitude, Government said that it would drive away the pride of India. He further stated that on the occasion of the approaching "Bakri Id" Government would cause pieces of beef to be thrown into temples and pigs cut in pieces into Musjids and would say that Mahomedans had thrown the beef and "Hindus had thrown the pigs".

The evidence of of Police Inspector Lakhat Hussain shows that he was present at the Conference when accused made this speech on 10th July 1921, The speech was delivered in Urdu and the witness took down the speech in Urdu shorthand there and then

ORDER OF COMMITMENT.

and he also says that accused actually said what he had recorded. He has produced his shorthand notes together with their transcript in Urdu longhand and that has again been translated in English by Khan Bahadur Sayad Mahomed Shah, District Superintendent of Police, Thar and Parkar.

That same speech was also taken down in Urdu shorthand by Sub Idspector Shan Bahadur and an English translation of that has also been put in.

On 11th July 1921 accused delivered speeches at Naushahro Feroz, notes of which were taken down by Sub Inspector Karam Chand which have also been put in, in this case.

Again on 6th August 1921 accused delivered a speech at Bhagal-kot in Bijapur District which was taken down in Marhathi shorthand by Inspector Joshi of the Poona C. I. D., the notes of which have also been put in, in this case.

Accused in his statement says that he did not want to say if the speeches exhibited in the case correctly represent what he had said but he says "In all my speeches I have always said that if this Government does not satisfy us over the Khilafat question, give us justice about the Punjab and give us full and complete Swaraj, it will be my bounden duty as a God fearing Mussalman and an Indian to do all I can to destroy this Empire".

Further on accused states "I give a warning that if the Government does not satisfy us over the Khilafat question and over the Punjab, and grant us Swaraj then Government goes its way and we go our way. There is war today between us and Government".

The evidence adduced in the case shows that accused made a speech at the Khilafat Conference on 10th July 1921 in which he attempted to excite disaffection towards the Government established by law in British India and also attempted to promote feelings of hatred between English and Indian classes of His Majesty's subjects.

TRIAL OF ALI BROTHERS & OTHERS.

I therefore hold that a prima facie case under sections 124-A and 153-A of the Indian Penal Code has been made out against the accused and I accordingly commit him to the Court of Sessions Karachi to stand his trial on charges under the above two sections.

Karchi,
29-9-21.

(Sd). S. M. TALATI,
City Magistrate, Karachi.

—:O:—

TRIAL OF MAHOMED ALI.
UNDER SECTION
124-A I. P. C.
COMMITTAL PROCEEDINGS.

COMPLAINT AGAINST MAHOMED ALI.

IN THE COURT OF THE DISTRICT MAGISTRATE,
KARACHI.

R. R. Royd District Superintendent of Police, residing
at Karachi Complainant

Versus.

Mahomed Ali of Rampur Accused.

Complaint under Section 124-A, Indian Penal Code.

The Complainant abovenamed begs to state as follows:—

1. This Complaint is made under authority from the Local Government, whose order dated 31st August 1921 in this behalf deputing the complainant to make a complaint under this section is filed herewith.

2. On the 10th July 1921 on the Idgah Maidan in Karachi the accused delivered a speech to a large audience in which he attempted to excite disaffection towards the Government established by law in British India.

3. The accused deliberately committed an offence under section 124-A Indian Penal Code referring to the section in express terms.

4. The accused has clearly committed an offence under section 124-A Indian Penal Code and the complainant prays that the accused may be dealt with according to law.

Karachi,
September 1921.

(Sd). R. R. BOYD,
Complainant.

—:O:—

The following are witnesses:—

1. Inspector Lakht Hussain, United Provinces Police, Allahabad.

2. Sub-Inspector Shan Bahadur, United Provinces Police, Allahabad.

3. Sub-Inspector Abdulla, Sind Police at Karachi.

4. K. B. Mahmood Shah, Deputy Superintendent, Sind Police at Karachi.

The names of further witnesses will, if necessary, be supplied later.

Karachi,
September 1921.

(Sd). T. G. ELPHINSTON,
Public Prosecutor for Sind.

TRIAL OF ALI BROTHERS & OTHERS.

Ex. No. 2.

ORDER.

In pursuance of the provisions of section 196 of the Code of Criminal Procedure, 1898, the Governor in Council hereby authorises the District Superintendent of Police, Karachi, or any police officer deputed by him in this behalf, to lodge a complaint under section 124-A of the Indian Penal Code, 1860, against Mahomed Ali of Rampur, temporarily resident in Bombay, in respect of the speech delivered by the said Mahomed Ali at a public meeting held on the Idgah Maidan, Karachi on or about the 10th July 1921.

By order of His Excellency the Governor in Council.
Dated at Poona, this 31st day of August 1921.

Sd. J. CRERAR,
Secretary to the Government of
Bombay, Home Department (Political).

—:o:—

This 28th day of September 1921.

At a Criminal Court held before S. M. Talati, Esquire,
City Magistrate, Karachi.

The Magistrate proceeds with the trial of case No. 997 of the General Calendar for 1921.

Name	Mahomed Ali of Rampur.
From what officer received and what date when received 28-9-21.	Received in custody as he was already undergoing another trial.

Accused present in custody. As another case against the accused occupied the whole day, this case is adjourned to 29-9-21.
Accused remanded to custody.

22-9-21.

Sd. S. M. TALATI,
City Magistrate, Karachi.

DIARY OF THE CASE.

Accused present in custody.

Statement of Mr. Boyd	...	....	Ex. No. 1
Government order sanctioning prosecution.			Ex. No. 2
Statement of Lakht Husain		....	Ex. No. 3
Notes of Urdu speech of Mahomed Ali at Karachi	...	...	Ex. No. 4.
Notes of Urdu speech of Mahomed Ali on 10th July 1921	...	....	Ex. No. 5
Statement of Shah Bahadur	...	....	Ex. No. 6
Notes of Urdu speech of Mahomed Ali's on 8th July 1921	....	....	Ex. No 7
do. at Idgah	....	....	Ex No. 7-A.
Statement of Abdullah	....	....	Ex. No 8
Notes of Urdu speech of Mahomed Ali on 11th July 1921	....	....	Ex. No. 9
Fair copy	do	....	Ex. No. 10.
Statement of Mr. Mahoodshah		...	Ex. No. 11.
English translation of Mahomed Ali's Presidential address i. e.	Ex. 4	....	Ex. No. 12
English translation of	Ex. 5	....	Ex. No. 13
Do	Ex. 7-A	....	Ex. No. 14
Do	Ex. 9 & 10	....	Ex. No. 15
Examination of accused	....	....	Ex. No. 16

Adjourned to 1st October 1921 for further examination of the accused. Accused remanded to custody.

(Sd). S. M. TALATI,
City Magistrate, Karachi.

1-10-1921.

—————o:—————

Accused present in custody.

Further statement of accused	....	Ex. No. 17
Plea	....	Ex. No. 18
Commitment order	...	Ex. No. 19

(Sd). S. M. TALATI,
City Magistrate, Karachi.

TRIAL OF ALI BROTHERS & OTHERS.

Ex. No. 1.

I having made S. A. state that my name is R. R. Boyd, my father's name is _____, my age about 41, my religion Christian, my caste Church of England, my calling District Superintendent of Police, my residence Karachi.

Examination in Chief.

To the Public Prosecutor.

I have filed this complaint under the authority from the Local Government. (Ex. 2) is the order of the Local Government.

No cross examination.

(Sd). S. M. TALATI,

29-9-21.

City Magistrate, Karachi.

—————:o:—————

Ex. No. 3.

I having made S. A. state that my name is Lakht Husain, my father's name is Tasadu Hussain, my age about 40, my religion Mussalman, my caste Sayed, my calling Inspector C. I. D., my residence Allahabad.

Examination in Chief.

To the Public Presecutor.

I was present at the Khilafat Conference on 8th July last. Accused made a presidential speech in Urdu language. I am accustomed to take down Urdu in shorthand, I took down the speech in shorthand. I have made a correct transcript of it in Urdu long-hand. I produce it (Ex. 4). Accused actually said what I have recorded. I was present at the public meeting held at the Idgah Maidan on 10th July, where the accused delivered a speech in Urdu. I took shorthand notes of what accused said. I have prepared a true transcript in Urdu longhand of my shorthand notes. I produce it Ex. 5. Accused actually said what I have recorded there. About 3000 people were present at the Idgah meeting and both Hindus and Mussalmans were present there. Some enthusiasm was expressed at the end of the speech.

No Cross Examination.

(Sd). S. M. TALATI,

29-9-21.

City Magistrate, Karachi.

DEPOSITIONS OF SHAN BAHADUR & ABDULLA KHAN.

Ex. No. 6.

I having made S. A. state that my name is Shan Bahadur, my father's name is Khan Bahadur, my age about 35, my religion Mussalman, my caste Pathan, my calling C. I. D., my residence Allahabad.

Examination in Chief.

To the Public Prosecutor.

I was present on 10th July last at the public meeting at the Idgah. Accused made a speech at that meeting in Urdu. I am accustomed to take down Urdu in shorthand. I took down the speech of the accused in Urdu shorthand. I have prepared a true transcript of my Urdu shorthand into longhand. I produce it Ex. 7. Accused actually said what I have recorded there. I have got my shorthand notes here for inspection if desired.

No cross Examination.

Sd. S. M. TALATI,
City Magistrate, Karachi.

29-9-21.

—————:O:—————

Re-called and on S. A.

To the Public Prosecutor.

(Ex. 7) which I have given before is the concluding speech of the accused at the Conference. I gave it by mistake instead of notes of the Idgah speech. I now produce the notes of the Idgah speech (Ex. 7-A).

No cross Examination.

(Sd). S. M. TALATI,
City Magistrate, Karachi.

29-9-21.

—————:O:—————

Ex. No. 8.

I having made S. A. state that my name is Abdullakhan, my father's name is Fatehkhani, my age about 24, my religion Musalman, my caste Sheikh, my calling Sub-Inspector C. I. D., my residence Karachi.

TRIAL OF ALL BROTHERS & OTHERS.

Examination in chief.

To the Public Prosecutor.

I was present at Shahdadpur on 11th July last. Accused addressed a meeting there on that day. He spoke in Urdu. His speech was translated into Sindhi. I am well acquainted with Urdu. I am accustomed to take notes of speeches. I took notes of the speech of the accused. I produce the original notes with a fair copy of it (Ex. 9 and 10). Accused No. 1 actually said what I have recorded there. There were about 500 men present and the majority were Hindus.

No Cross Examination.

(Sd). S. M. TALATI,

City Magistrate, Karachi.

29-9-1921.

-----:0:-----

Ex. No. 11.

I having made S. A. state that my name is Mahamudshah, my father's name is Nawabshah, my age about 43, my religion Musalman, my caste Sayed, my calling District Superintendent of Police, my residence Thar Parkar.

Examination in chief.

To the Public Prosecutor.

I have prepared a correct translation in English of the Urdu notes prepared by Inspector Lakhat Hnsain of the Presidential address delivered by the accused at the All India Khilafat Conference. (Ex. 4) are the notes which I translated. I produce the translation (Ex. 12). I have prepared a correct translation of accused's speech at the Idgah Maidan as reported by Lakht Hussain. (Ex. 5) are the notes which I translated. I produce the translation Ex. 13. I prepared a true translation of (Ex. 7) notes of Shan Bahadur of the speech of accused at the Idgah Maidan. I produce it Ex. 14. I prepared a true translation of (Ex. 9 & 10) which are the notes of Sub-Inspector Abdulla Khan of the speech of the accused. I produce the translation Ex. 15.

No Cross Examination.

(Sd). S. M. TALATI,

City Magistrate, Karachi.

29-9-1921.

EXAMINATION OF MAHOMED ALI

The King. Emperor.

Versus

Mahomed Ali

Ex. No. 16.

Examination of the accused.

Q. Did you make a speech on the Idgah Maidan on the 10th July 1921?

A. I do not know what Maidan it was, but I made a speech. I also spoke outside the conference pandal.

Q. Ex. 5 are the correct notes of your speech taken down by Inspector Lakhat Hussain?

A. I shall read the notes and then say about their correctness in my statement.

Karachi,
29-9-21.

(Sd). S. M. TALATI,
City Magistrate, Karachi.

—:o:—

Ex. No. 17.

Further examination of the accused continued.

Q. Does Ex. 5 which is the report by Inspector Lakhat Husain correctly describe what you stated in your speech?

A. I don't think a general question like this is fair for the purpose of elucidating any circumstance that may appear against me in the evidence and it is too much co-operation to ask a non-co-operator to confess before the Court in order to relieve the prosecution from the necessity of adducing the required amount of evidence. Nevertheless in order not to appear to be shy of standing by all that I have said, I would like to state that the speech has been in the main accurately reported except for any omissions that I cannot now recollect. I have made a sort of errata, but it is very meagre and of little significance.

Q. Have you anything else to say about the witnesses and evidence recorded against you?

TRIAL OF ALI BROTHERS & OTHERS.

A. I am surprised that even this Government has launched prosecution against me for an offence under section 124-A, because it had on a memorable occasion issued a self denying ordinance, though at the time itself, it looked as if it was a declaration of a bargain which has subsequently been denied, viz., that we were not to be prosecuted as long as we did not incite the people to violence. I note that although not a single witness has said a word about any incitement to violence and when one witness, the principal witness in the case, my inevitable companion Sayed Lakhat Husain Sahib, has even denied that there was any excitement at the meeting at the Idgah and only swore to there being considerable enthusiasm which was the least that I deserved. I find that the Government of Bombay have edged in a word or two about incitement to violence also, presumably to save the face of the Viceroy. Now in the correspondence that has taken place between my beloved chief Mahatma Gandhi and the Viceroy, as well as on the platform and in the public press, it has been made amply clear that after the betrayal of the Musalmans and of the Punjab, we non-co-operators only live to create, if that is necessary even today, such peaceful disaffection against the present system of Government as would ultimately suffice to mend it or end it. That is why in the course of my speech at the Idgah I said :—

“There should be disaffection, contempt and hatred of the present system of Government in your hearts. Is there any Lawyer here? Oh my bretheren does anyone here remember the wording of section 124-A? If in addition to this there is any other word in that section, do please tell me. All that I have said and if there is anything else in that section which I have omitted, all that must be in your hearts against this system of Government. I have no hatred against the Englishman—I love him so much—he appears to be so good to me—but all that in his own country. “Thou art good in thy country I am good in my country”. Brother by living together too much there is a fear of quarrel”.

EXAMINATION OF MAHOMED ALI.

In the same speech I spoke at great length about non-violence and argued at great length to convince people that just as we have lost Swaraj in India, without any great British force being opposed to us, just in the same manner and in fact without even that force which the British had used against us, we shall regain Swaraj. I had quoted the homopathic Kalma "Similia Similibus Curantur". (like cures like) I told the people that it was for foreign yarn and cloth that India became a slave nation and it would suffice her to regain freedom if she once more took to her charkha and Karga (handloom) and I had likened our charkha to the British Machine Gun with this difference that its range was not a few hundred yards, but that the shots fired from it here in Karachi could crush Lancashire 7000 miles away. I had emphasised that our demoralization which was all but universal could not be removed so easily if we placed our reliance on the soldiery of the Punjab or the Sikhs, Mussalmans and Rajputs, muchless if Swaraj was sought through summoning up the Afghan Bogey. Swaraj I said (in a language which you can understand better) was Sarv-no-raj i.e. Raj of all and the raj of all could not be achieved through the maximum sacrifice of a few as by the minimum sacrifice of all and I clinched matters by the final argumnet that it was cowardly of 320 millions of people to talk of distroying the Government of a hundred thousand people by the sword. And for this, a lying communique has been issued that I incited people to violence. Where is the evidence of that? But evidence of the effect of our preaching is visible every where. Look around That gentleman (pointing his hand to the District Magistrate who was sitting near by) who issued warrants for our arrest is hale and hearty and not a hair of his head has been touched. The police and the magistracy are all safe and sound. Not a hair of any one has been touched throughout the whole of India. This I feel constrained to put on the record in my statement because we have given our word for non-violence to day to God and to man alike and I cannot even dream of violence before non-violent non-co-operation has been given the fullest and fairest trial,—not to

TRIAL OF ALL BROTHERS AND OTHERS.

convince Government but to convince God and our conscience. I call God to witness (though he wont enter your witness box) and to testify that standing and sitting, asleep and awake, I have been non-violent and have dissuaded hundreds and thousands, if not millions from the path of violence. As for the other charges which are the only ones perhaps which have been mentioned in warrant of my arrest I have very little to say. Section 124-A deals with seditious libel and I should think, before proof of libel could be adduced, it is necessary to convince people that the person or body of persons libelled have any reputation to lose. On the showing of British Ex-Ministers them selves (I do not care to name the Secretary of State personally so I confine myself to his predecessor in office as under secretary of State for India, Mr. C. H. Roberts) that the head of the Government namely the Prime Minister Mr. Lloyd George has already betrayed the word he had pledged in the name of England and associated countries when he sent the Greeks into the homeland of the Turks. An earlier pledge even more solemn was broken when the holy places of Islam were attacked and molested though now with the chicanery of a liar the Government of India have been bombarding the world (as its troops bombarded Juda specifically named in the pledge to be immuned from attack and molestation) with communiques and answers in Councils protesting that General Allenby, the Victorious Commander entered Palestine on foot and that the mosque of Umar (with whom God was pleased) is being guarded by Muslim troops of India and that the Sanctity of the sacred buildings had not been outraged though even that has been disputed by some of the devoutest Shia divines. And what shall I say of the martyred Punjab? When after my supposed recantation and abject surrender, the Pioneer so kindly invited me to enter the Council, as the next step I suppose, in degradation, I replied at the Idgah Maidan what I say today that "Who soever enters that Council has first to crawl on his belly through a lane in Amritsar and the guard of honour outside is supplied by the women of Maniawala, whom a despicable dastardly man sought to dishonour by threatening to have

EXAMINATION OF MAHOMED ALI.

their skirts removed by our loyal police. Whatever reputation this Government ever had it lost in the holy lands of Islam and in our own Punjab and the task of bringing it into hatred and contempt is beyond me. The British Cabinet at Home and their myridons here who are only interested in keeping Musalmans quiet with anything that might cheat them and the atrocities of Mc.O'Dier and General Dyer have done their work only too well. I have no hope of justice and I shall be a sinner to seek justice from a Government that has denied justice to God and His Prophet, to the Turks and the Punjabees and if I ever had any hope of it, it was smothered within me when the District Magistrate of Vizgapatam prostituted the law of which he was the custodian by pretending to believe that I would break the peace, of all places, at Waltair, when I had not broken it so long even in places where I had lived for months and that it could not be prevented except by my arrest. All because the handiwork of his brother the District Magistrate of Karachi was too late to catch me on the 14th September as I was proceeding to pacify my poor frenzied sinning brethern the Moplahs of Malabar. When he dropped these proceedings under sections 107 and 108 C. P. C. I asked him laughingly to confess the truth and shame the devil by saying that he had never intended to proceed any further than to await the arrival of the Karachi warrant. This is all I have to say and if the Government wants to know on what terms it can retain any sort of connection with India my answer is that it only needs a change of heart on its part which it can signify by satisfying the religious obligations of the Mussalmans and by doing justice to the Punjab and last though not the leest, by establishing the Government in India which will have its only sanction in respecting God's law and accepting the peoples will. It loses nothing thereby in substance but if it persists, then I can only expect for it

TRIAL OF ALL BROTHERS & OTHERS.

the fate of powers greater than it in the past:—of the rulers of Babylon and Egypt, whom a gnat or an innocent tide could destroy when they set themselves up as the compeers of God.

(Sd). MAHOMED ALI.

1st October 1921.

(Sd). S. M. TALATI,

City Magistrate, Karachi.

1-10-1921.

Certified that the above examination of the accused Mahomed Ali of Rampur has been taken in my presence and in my hearing and contains a full and true account of the statement made by him.

(Sd). S. M. TALATI,

City Magistrate, Karachi.

1-10-1921.

—:o:—

CHARGE.

Exhibit No. 17.

Sections 221, 222, 223, C. P. C.

I, S. M. Talati Magistrate 1st class, Karachi hereby charge you Mahomed Ali of Rampur as follows:—

That you on or about the 10th day of July 1921 at the Idgah Maidan at Karachi delivered the speech reported in Ex. No. 5 before a large audience in which you attempted to excite disaffection towards the Government established by law in British India and thereby committed an offence punishable under section 124 A., of the Indian Penal Code and within the cognizance of the Court of Sessions, Karachi.

And I hereby direct that you be tried by the said Court on the said charge.

Dated 1st day of October 1921.

(Sd). S. M. TALATI,

City Magistrate, Karachi.

Exhibit No. 18.

The within charge having been read over and explained to the accused aforesaid in a language that he understands viz English Mahomed Ali of Rampur is asked if he has to offer any defence witnesses and he says "No".

(Sd). S. M. TALATI,

City Magistrate, Karachi.

1-10-1921.

ORDER OF COMMITMENT.

Ex. No. 19.

ORDER OF COMMITMENT.

Crown

Versus.

Mahomed Ali of Rampur.

In this case the complaint against the accused is under Section 124-A, Indian Penal Code, of attempting to bring into hatred or contempt and attempting to excite disaffection towards the Government established by Law in British India.

The facts are that on 10th July 1921 accused made a speech at the Idgah Maidan in Karachi before a large audience in which there are numerous passages intended to excite disaffection towards the British Government and at the end of the speech accused distinctly told his audience that "there should be hatred, discontent and disaffection in your hearts towards this system of Government". The whole passage runs as follows :—

"But I can entertain that hope (of driving the English out of the British India) only when there may be courage, manliness, and love of freedom in your hearts. If you do not like slavery, if you flee from slavery and if you long for liberty then your hearts should be disgusted with this raj and there should be hatred and discontent and disaffection in your hearts towards this system of Government. Is there any lawyer here? Does any one remember the words of Section 124-A? If I have omitted any word, let me know it. In Section 124-A, the words are "hatred", disaffection and discontent". If there is anything else also in this section all this should be in your hearts with regard to this system of Government".

The speech delivered by the accused in Urdu was taken down in Urdu shorthand by Inspector Lakht Hussain and Sub-Inspector Shan Bahadur and they have produced their Urdu longhand transcripts of the shorthand notes. They further state that the accused actually stated what they have recorded.

TRIAL OF ALI BROTHERS & OTHERS.

The accused in his examination admits that his speech has been in the main accurately reported except for any omission which he cannot now recollect,

Thus there is sufficient evidence on record to prove the speech made by the accused, and the accused himself admits the correctness of the report taken down by Inspector Lakht Hussain. The speech is full of seditious passages and the entire trend of the speech is to bring into hatred and contempt the British Government and to excite disaffection towards it. At the end of the speech accused distinctly quotes the wording of Section 124-A., of the Indian Penal Code and tells his audience that their hearts should be disgusted with the British Raj and there should be hatred, discontent and disaffection in their hearts towards this system of Government.

There is thus sufficient prima-facie evidence on record to show that the accused has committed an offence under Section 124-A., Indian Penal Code, and I accordingly commit him to the Court of Sessions, Karachi, to stand his trial on that charge.

(Sd). S. M. TALATI,
City Magistrate, Karachi

22-10-1921.

— :0: —

TRIAL OF ALI BROTHERS.
AND
FIVE OTHERS.
SESSIONS PROCEEDINGS.



(Copy Right.)

MR. ROSS ALSTON,

(Advocate General Allahabad.)

Kohinoor Printing Works.

AMENDED CHARGE

IN THE COURT OF THE JUDICIAL COMMISSIONER OF SIND.

Sessions Court Jurisdiction.

Sessions Case No. 33 of 1921.

At a Court of Criminal Sessions, held at Karachi before B. C. Kennedy Esquire, I. C. S., Judicial Commissioner of Sind this 24th day of October 1921 the following accused persons :—

- (1) Mahomed Ali of Rampur.
- (2) Moulvi Hussein Ahmed of Deoband.
- (3) Dr. Saifuddin Kitchlew of Amritsar.
- (4) Pir Ghulum Mujadid of Matiari.
- (5) Moulvi Nisar Ahmed of Cawnpore.
- (6) Bharti Krishna Tirathji Alias Venkatraman.
- (7) Shaukat Ali of Rampur.

committed for trial by S. M. Talati Esquire, City Magistrate of Karachi, are placed at the Bar and charged :—

(1). That you all the seven accused at some time or times between the months of February 1920 and September 1921 both inclusive at Karachi and other places in British India were (with others) parties to a criminal conspiracy to seduce Mahomedan Officers and soldiers in the Army of His Majesty the King Emperor from their duty and thereby committed an offence punishable under Section 120-B/115 read with section 131 of the Indian Penal Code and within the cognizance of this Sessions Court.

(2). And you the said seven persons are further charged that in pursuance of the said conspiracy attempts were made by a member or members of that conspiracy in or about the months of July or August 1921 to seduce the Mahomedan Officers from their duty by sending leaflets in the form of Ex. 34 to such officers and you thereby committed an offence punishable under Sections 120-B/109 read with Section 131 Indian Penal Code and within the cognizance of this Sessions Court.

TRIAL OF ALI BROTHERS & OTHERS.

(3). And further that you Mahomed Ali on or about the 9th day of July 1921 at Karachi made a statement to wit that "It is in every way religiously unlawful for a Mussalman at the present moment to continue in the British Army or to enter the army or to induce others to join the army" with intent to cause or which is likely to cause Musalman officers and soldiers in the army of His Majesty to disregard or fail in their duty as such, and thereby committed an offence punishable under Section 505 of the Indian Penal Code and within the cognizance of this Sessions Court.

(4). And further that you (accused 2 to 7 inclusive) conspired with the said Mahomed Ali to commit the said offence under Section 505 Indian Penal Code which he committed in pursuance of that conspiracy and you thereby committed an offence under Section 109 Indian Penal Code read with Section 505 Indian Penal Code within the cognizance of this Sessions Court.

(5). And further that you Mahomed Ali on or about the 9th day of July 1921 at Karachi abetted the commission of an offence punishable under Section 505 and/or Section 131 Indian Penal Code by more than ten persons, in that, you stated in the All India Khilafat Conference that "It is the duty of all Musalmans in general and the Ulema in particular to see that these religious commandments (referring to the words quoted above) are brought home to every Musalman in the Army" and thereby committed an offence under Section 117 Indian Penal Code and within the cognizance of this Sessions Court.

(6). And further that you (accused Nos. 2 to 7 conspired with the said Mahomed Ali to commit the said offence under Section 117 Indian Penal Code which he committed in pursuance of that conspiracy and you thereby committed an offence punishable under Section 109 read with Section 117 Indian Penal Code and within the cognizance of this Sessions Court.

DIARY OF THE CASE.

DIARY IN THE SESSIONS CASE NO. 33. OF 1921.

CROWN

Versus.

Mahomed Ali and 6 others.

The charge being read and explained is recorded as Ex. No. 1

The accused refuse to plead. Plea entered formally as not guilty.

The following persons are selected by lot to sit as Jurors for the trial :—

1. Mr. Dayaram Gidumal.
2. Mr. D'Souza C.
3. Mr. Ramchand Tulsidas (Foreman).
4. Mr. De'Cruz R.
5. Mr. Critchell D.

Mr. Elphinston appears for the Crown.

Mr. Elphinston having opened the case leads evidence :—

Mr. Zaman Shah Mahbub Shah examined on S. A. and his deposition recorded. Ex. No. 2.

Order of Government sanctioning prosecution and District Superintendent Police's order thereon (Ex. 2 and 3 in the lower Court) read and recorded. Ex. No. 3 & 4.

Copy of Fatwa (Ex. No. 5 in the Lower Court) read and recorded. Ex. No. 5.

Copy of Fatwa (Ex. No. 4 in the Lower Court) read and recorded. Ex No. 6.

Mr. Brewster on oath and his evidence recorded Ex. No. 7.

Documents sent to him by the City Magistrate shown to him and put in as Exs. Nos. 72, 73, 77, 78, 79, 80 and 81). In the Lower Court as Exs. Nos. 7a, 8, 9, 10, 11, 12 and 13.

Mr. Mahomed Bux Ellahie Bux examined on S. A. and his deposition recorded as Ex. No. 14.

TRIAL OF ALI BROTHERS & OTHERS.

Mr. Lakhat Hussein son of Tasiduq Hussein examined on
S. A. and his deposition recorded Ex. No. 15,

Urdu notes in long hand (Ex. No. 12 in the Lower Court) read
and recorded Ex. No. 16.

Translation thereof (Ex. No. 45 in the Lower Court) read and
recorded Ex. No. 17.

Introductory remarks (Ex. No. 13 in the Lower Court) read
and recorded Ex. No. 18

Translation thereof (Ex. No. 47 in the Lower Court) read
and recorded Ex. No. 19

Speech by accused No. 2 original and translation (Exs. Nos. 14
and 48 in the Lower Court) read and recorded Ex. Nos. 20 & 21

* Transcript and translation of accused No. 3's speech (Exs. 15
and 49 in the Lower Court) read and recorded Ex. Nos. 22 & 23

Further proceedings adjourned till tomorrow. Jurors, witnesses
and the Public Prosecutor asked to attend then. Accused remanded
in custody to be produced again tomorrow.

By Order,
24-10-21. Sd. ATMARAM TIKAMDAS,
For Registrar.

—:0:—

Proceedings resumed this day. Accused and Jurors and wit-
nesses present.

Evidence of Lakht Hussain continued:—

Urdu transcript of accused No. 5's speech (Ex. No. 16 in the
Lower Court) recorded. Ex. No. 24.

Translation thereof (Ex. No. 50 in the Lower Court) read and
recorded Ex. No. 25.

Transcript of the Presidential speech (Ex. No. 17 in the Lower
Court) read and recorded Ex. No. 26.

Translation of the above (Ex. No. 51 in the Lower Court) read
and recorded Ex. No. 27.

DIARY OF THE CASE

Shan Bahadur Khan son of Khan Bahadur Khan examined on S. A. and his deposition recorded Ex. No. 28.

Introductory remarks by the accused No. 1 (Ex. No. 19 in the Lower Court) recorded Ex. No. 29.

Translation of the above (Ex. No. 52 in the Lower Court) read and recorded Ex. No. 30.

Transcript of the speech of the accused No. 2 (Ex. No. 20 in Lower Court) read and recorded Ex. No. 31.

Translation of the above (Ex. No. 53 in the Lower Court) read and recorded Ex. No. 32.

Transcript of the speech of accused No. 3 (Ex. No. 21 in the Lower Court) identified by the witness.

Transcript of the speech of accused No. 3 (Ex. No. 22 in the Lower Court) identified by the witness.

(These transcripts and translations were not put in unless accused wished to examine on them. Accused asked specifically if they wished to cross examine with respect to these transcripts. They declined to X examine).

Mr. Basarmal Jawhermal examined on S. A. and his deposition recorded Ex. No. 33.

Transcript of the speech by the accused No. 6 (Ex. 5d in the Lower Court) recorded Ex. No. 34.

Translation thereof (Ex. No. 6a in the Lower Court) read and recorded Ex. No. 35.

Teckchand Hemandrs examined on S. A. and his deposition recorded Ex. No. 36.

Notes of the Resolutions and speeches on the Resolutions in the Khilafat Conference (Ex. No. 25 in the Lower Court) recorded Ex. No. 37.

Mr. William. R. Burns examined on oath and his deposition read and recorded Ex. No. 38.

TRIAL OF ALI BROTHERS & OTHERS.

Report in the Daily Gazette issue dated 11th July 1921.
(Ex. No. 24 in the Lower Court) read and recorded Ex. No. 39.

Hariram Shewaram examined on S. A. and his deposition
recorded Ex. No. 40.

Tikamdas Khemchand Jeswani examined on S. A. and his
deposition recorded Ex. No. 41.

Report of the proceedings of the Khilafat Conference in the
New Times issue of Monday, the 11th July (Ex. No. 38 in the
Lower Court) read and recorded Ex. No. 42.

Resolution No. 7 in the New Times (Ex. No. 39 in the Lower
Court) read and recorded Ex. No. 43.

Abdul Gafur Zardar Khan examined on S. A. and his deposi-
tion recorded Ex. No. 44.

Fateh Bahadur Luxman Parsad examined on S. A. and his
deposition recorded Ex. No. 45.

Usman Ghani examined on S. A. and his deposition re-
corded Ex. No. 46.

(Keshowlal Jamadar tendered for X examination Cross examina-
tion declined.)

Karamchand Ramlal examined on S. A. and his deposition re-
corded Ex. No. 47.

Notes of the speech of accused No. 7 (Ex. No. 27 in the Lower
Court) read and recorded Ex. No. 48.

Translation of the above (Ex. No. 56 in the Lower Court) read
and recorded Ex. No. 49.

Mahomood Shah Nawab Shah examined on S. A. and his depo-
sition recorded Ex. No. 50.

Leaflet (Ex. No. 34 in the Lower Court) recorded Ex. No. 51.

Translation thereof (Ex. No. 57 in the Lower Court) read and
recorded Ex. No. 52.

Abdul Gani Barkat Illahi examined on S. A. and his deposition
recorded Ex. No. 53.

DIARY OF THE CASE

Item No. 30 in February (In Ex. No. 41 of the Lower Court) recorded Ex. No. 54.

Item No. 30 of March (In Ex. No. 41 of the Lower Court) recorded Ex. No. 55.

Items in the months of April, May, June and July recorded Exs. No. 56, 57, 58 & 59.

Title page of the Pamphlet etc. (Ex. No. 43a in the Lower Court) read and recorded Ex. No. 60.

Receipt in peon's delivery book (Ex. No. 3a in the Lower Court) recorded Ex. No. 61.

Introduction and the extracts from papers sent to Press (Ex. No. 43b in the Lower Court) read and recorded Ex. No. 62.

Mahomed Ahmed examined on S. A. his deposition recorded Ex. No. 63.

(Mr. Kelly tendered for cross examination declined).

Vithal son of Ramchandra examined on S. A. and his deposition recorded Ex. No. 64.

(Notes of the speeches of accused No. 7 in Marathi (Ex. No. 66 in the Lower Court) recorded Ex. No. 65.

Translation of the above (Ex. No. 67 in the Lower Court) read and recorded Ex. No. 66.

Narayan Ganesh Joshi examined on S. A. and his deposition recorded Ex. No. 67.

Transcript of the remarks by the accused No. 1 (Ex. No. 59 in the Lower Court) recorded Ex. No. 68.

Translation thereof (Ex. No. 60 in the Lower Court) read and recorded Ex. No. 69.

Further proceedings adjourned till tomorrow. Accused remained in custody to jail to be produced again tomorrow. Jurors and the witnesses to attend then.

By Order

(Sd). ATMARAM TIKAMDAS.

25-10-21.

For registrar.

TRIAL OF ALI BROTHERS & OTHERS.

Proceedings resumed this day the 26th October 1921.

Bulchand Punamchand examined on S. A. and his deposition recorded Ex. No. 70.

Transcript of the resolution in Marathi put before the Belgaum Khilafat Conference (Ex. No. 63 in the Lower Court) recorded Ex. No. 71.

Translation thereof (Ex. No. 64 in the Lower Court) read and recorded Ex. No. 72.

William Christopher Shankar examined on oath and his deposition recorded Ex. No. 73.

List of papers (Ex. No. 74 in the Lower Court) recorded Ex. No. 74.

(Abdul Karim Inspector tendered for Cross examinations but not Cross examined).

(Mr. Smart District Magistrate Karachi tendered for Cross examinations but not Cross examined).

Nariman Hormusji examined on oath and his deposition recorded Ex. No. 75.

(Accused No. 1 took objection to the witness Surrendra Nath Sen being examined before this Court Order passed by the Court directing that the witness be examined).

Surrendra Nath Sen examined on S. A. and his deposition recorded Ex. No. 76.

Copy of accused No. 7's speech read and recorded Ex. No. 77.

Col. Bernard Gwyer examined on oath and his deposition recorded Ex. No. 78.

Forms of Enrolment (Ex. Nos. 29 and 30 in the Lower Court) recorded respectively as Exs. Nos. 79 and 80.

Leaflets (Exs. Nos. 31a, 31b and 31c in the Lower Court) recorded respectively as Exs. Nos. 81a, 81b and 81c.

Copy of telegram produced by Col. Gwyer re Subedar Jairam being ill recorded Ex. No. 82.

Reply Ex. No. 83.

DIARY OF THE CASE.

Azizuddin Sharafuddin Subedar examined on S. A. and his deposition recorded Ex. No. 84.

Leaflet (Ex. 34 in the Lower Court) recorded as Ex. No. 85.

Mahomed Hussain Darwesh Ali examined on S. A. and his deposition recorded Ex. No. 87.

(Court being satisfied that Subedar Jairam is ill allows his deposition before the City Magistrate to go. The deposition in the City Magistrate's Court is accordingly read and recorded (Ex. No. 32 in the Lower Court) here as Ex. No. 88.

(The prosecution evidence having been finished the statement of accused No. 1 in the City Magistrate's Court is read and recorded:—

Oral statement Ex. No. 89.

Written statement Ex. No. 90.

Written statement of accused No. 2 Ex. No. 91.

Written statement of accused No. 3 Ex. No. 92.

Written statement of accused No. 4 Ex. No. 93.

Written statement of accused No. 5 Ex. No. 94.

Written statement of accused No. 6 Ex. No. 95.

Written statement of accused No. 7 Ex. No. 96.

Examination of accused No. 1 in this Court recorded Ex. No. 97.

(Accused No. 1 asks that he should be allowed to put in W. S.; he was told that he could not. He again said and when asked whether he wished to say anything in explanation of the evidence, replied, that he wished to explain all the circumstances connected with the case. The Court said that he would be allowed to do that at a later stage).

Then Mr. Mahomed Ali applied to be allowed to make a statement.

Order dictated to shorthand writer.

Examination of accused No. 2 recorded here Ex. No. 98.

TRIAL OF ALI BROTHERS AND OTHERS.

Examination of the accused No. 3 recorded here Ex. No. 99.

Examination of the accused No. 4 recorded here Ex. No. 100.

Examination of the accused No. 5 recorded here Ex. No. 101.

Examination of the accused No. 6 recorded here Ex. No. 102.

Examination of the accused No. 7 recorded here Ex. No. 103.

The case for the prosecution having been brought to a close the accused persons aforesaid are called upon to enter into their defence and to produce evidence.

They say that they do not wish to call evidence :—

Note to that effect recorded Ex. No. 104.

Further proceedings adjourned till tomorrow. The accused remanded in custody, to jail, to be produced tomorrow. Witnesses except Lakhat Hussein and Shan Bahadur discharged. Jurors asked to attend then.

By Order

(Sd). ATMARAM TIKAMDAS,

26-10-21.

For Registrar.

—:O:—

Proceedings resumed this the 27th day of October 1921.

Notes of arguments by the Public Prosecutor Ex. No 105.

Notes of address by the accused No. 1 recorded Ex. No. 106.

No. 1 has not yet finished.

Further proceedings adjourned till tomorrow. Accused remanded in custody to jail to be produced tomorrow. Jurors asked to attend then.

By Order,

(Sd). ATMARAM TIKAMDAS,

27-10-21.

For Registrar.

—:O:—

Proceedings resumed this day the 28th October 1921.

Accused No. 1 continues.

Notes of his address recorded Ex. No. 106.

Notes of address by the accused No. 2 recorded Ex. No. 107.

DIARY OF THE CASE.

Notes of the address of the accused No. 3 recorded

Ex. No. 108.

Further proceedings adjourned till tomorrow. Accused remanded in custody to jail, to be produced tomorrow. Jurors asked to attend then.

By Order,

(Sd.) ATMARAM TIKAMDAS,

28-10-21.

For Registrar.

-----:O:-----

Proceedings resumed this the 29th day of October 1921.

Notes of the address by accused No. 4 recorded Ex. No 109.

Notes of the address by the accused No. 5 recorded Ex. No. 110.

Notes of the address by the accused No. 6 recorded Ex. No 111.

Notes of the address by the accused No. 7 recorded Ex. No. 112.

Further proceedings adjourned till Tuesday, the 1st November 1921. Accused remanded in custody to be produced then. Jurors directed to attend then.

By Order,

(Sd). ATMARAM TIKAMDAS,

29-10-21.

For Registrar.

-----:O:-----

Further proceedings resumed this day. The accused, Jurors and the Public Prosecutor present.

Heads of charge to the Jury recorded Ex. No. 113.

Verdict of the Jury Ex, No. 114.

Finding and order Ex. No. 115.

Intimation to the Jailor recorded Ex. No. 116.

Opinion of assessors recorded Ex. No. 117.

Judgement Ex. No. 118.

Two Warrants Exs. Nos. 119 & 120.

Seal of the Court of the
Judicial Commissioner
of Sind.

By Order,

(Sd.) ATMARAM TIKAMDAS,

For Registrar.

1-11-21.

OPENING ADDRESS OF THE PUBLIC PROSECUTOR.

Gentlemen:—The accused are charged with offences punishable under Sections 120-B read with 131 Indian Penal Code, Sections 505 ~~505~~ with 109 Indian Penal Code and Section 117 read with Section 505 and/or 131 and Section 117 read with 109 Indian Penal Code.

One only of these charges is *triable* by a Jury, that is the decision on the facts as to the guilt or innocence of the accused is in your hands as regards *one* charge only—the other charges involved in this case are *triable* by the Court with your aid as assessors. (He then explained Section 269 (3) Criminal Procedure Code and Rule 3 Chapter XIV Rules of the Court of the Judicial Commissioner.

It is my duty to read Sections of Indian Penal Code.

1. He then read Section 131 whole and relevant portions again). And continued:—

You will notice that the offence is *complete* if there is a *mere attempt* to seduce a soldier from his duty. It is quite immaterial whether the attempt is successful or unsuccessful. The *success* or otherwise of the attempt depends largely on the *loyalty* of the soldier and not on the efforts of the accused. Thanks to the loyalty of the troops, you will in this case be concerned only with an *attempt* to seduce soldiers from their duty and a conspiracy to make that attempt.

2. (He then read Section 120-A which defines the offence of Criminal conspiracy). In this case the prosecution allege that there ~~was~~ an agreement to commit an offence under Section 131 Indian Penal Code just read. Mere agreement to commit offence without doing anything more is sufficient to constitute the offence, though in this case the prosecution allege acts were done. If two men agree for even one minute to do an illegal act, they are *guilty* of Criminal conspiracy, even though they never do anything at all towards carrying out their agreement and abandon the idea before doing any single act whatever. The illegal act, which the accused are charged in this case with having agreed to commit, is *attempting*



(Copy Right.)

MR. T. G. ELPHINSTON,

Public Prosecutor, Sind.



(Copy Right.)

MR. T. G. ELPHINSTON,

Public Prosecutor, Sind.

Kohingar Printing Works

PUBLIC PROSECUTOR'S OPENING ADDRESS.

to seduce soldiers from their duty and, to show that each accused is guilty, it is only necessary to prove that at some time or other between February 1920 and July 1921 he did *agree* with other persons, who may or may not be before the Court now, to attempt to seduce soldiers from their duty.

He then read explanation to Section 120-A.

The ultimate object of the agreement may be the restoration of the Khilafat to its former prestige. The ultimate object may be purely religious, it may be innocent, it may be even praiseworthy and the illegal act *may be merely incidental* to that ultimate object—yet to agree to commit an offence even in such circumstances is a *criminal* conspiracy. It is necessary that you should bear this *well* in mind. The accused will tell you their action is prompted by religious motives. On the other hand you will find, when we come to deal with the evidence, that some or other of the accused have at two Khilafat Conferences, both held within one month of each other, proposed Resolutions in which in the same breath they have said that to remain in the army at this time is "Haram" i.e. contrary to the Mahomedan religion and have gone on to speak of an *Indian Republic*. The seduction of Mahomedan soldiers from their duty would be very useful as incidental to and facilitating the overthrow of the present system of Government, to which, their speeches show, the accused are bitterly opposed, and the establishment of an Indian Republic. Whether the ultimate object was this or, as the accused allege purely religious—or partly each, is *wholly* immaterial. The *only* question for you is "Did the accused *agree* to attempt to seduce Mahomedan soldiers from their duty". Their *ultimate* object does not concern you in *any* way whatever. It is *wholly* and *entirely* irrelevant.

The Prosecution do *not* allege that the accused are the *only* members of this criminal conspiracy, which has for its object the seducing of Mahomedan troops from their duty. The charge alleges that they were parties *with others* to this conspiracy.

TRIAL OF ALI BROTHERS & OTHERS.

Now do we allege that they were all parties to the conspiracy for the whole period covered by the charge. They doubtless joined the conspiracy at different times.

Though the offence of criminal conspiracy is complete as soon as two persons agree to commit an offence, even though the matter ends there and no one ever does anything in pursuance of that agreement, yet the punishment is different according to whether the offence is committed or not.

If an offence is committed by any member of a conspiracy in this case, that is if *any attempt* has been made by *any* member of a conspiracy to seduce any soldier from his duty and that attempt has been made in pursuance of a conspiracy, to which any of the accused was at any time between February 1920 and September 1920 a party (even though that act was done without the knowledge of the accused and by a stranger to them), each and every one of the accused who was party to that conspiracy that is, *agreed* to an attempt being made, is liable to punishment as laid down in Section 109 Indian Penal Code read with Section 131 Indian Penal Code as if he had personally attempted to seduce that soldier from his duty. In this case the prosecution allege that an attempt has been made to attempt to seduce certain Mahomedan officers from their duty by sending to them leaflets making a strong appeal to them to leave the army at once for religious reasons. The prosecution further allege that this attempt was made by some person or persons who, though the accused may not have known it, were parties to the same conspiracy, to the same agreement to seduce Mahomedan troops, as the accused were parties to.

This is the subject of the second charge in the case and is the only part of the case in which the decision on the facts is in *your* hands. All other matters will be tried by the learned Judge, and you will *only* be called upon for your opinions as assessors.

You as a Jury will have to decide. *First* whether any attempt has been made to seduce any Mahomedan officer from his duty, if so,

PUBLIC PROSECUTOR'S OPENING ADDRESS.

Secondly whether that attempt was made by any member of a conspiracy to seduce Mahomedan Officers and/or soldiers, that is to say "was this attempt made by some person or persons who was *party* to an *agreement* to *attempt* to seduce Mahomedan Officers or soldiers?"

Thirdly (and this point will *only* have to be decided by you as a Jury. If you first decide both the other points in the affirmative) were any of the accused, and if so *which* of them, at any time between 1st February 1920 and 30th September 1921, parties to *that* Agreement to *that* conspiracy to attempt to seduce troops?

I would ask you to pay particular attention throughout the case to these points. You are the sole Judges of facts on these three points and to fix them clearly in your minds, I will take the liberty of repeating them. They are :

First,—“Has any attempt been made to seduce any Mahomedan Officer from his duty?” If so.

Secondly:—“Was this attempt made by some person or persons who was *party* to an *agreement* to *attempt* to seduce Mahomedan Officers or soldiers?”. If so.

Thirdly—“Were any of the Accused, and if so *which* of them at any time between 1st February 1920 and 30th September 1921 parties to *that* Agreement to attempt to seduce troops?”

These are the *only* points for your decision as a Jury.

If you as Jury find any of the Accused not guilty on the second charge, the learned Judge will *then* ask you your opinions as assessors on the following points to assist him to decide them—namely.

(1) Whether there was *any* criminal conspiracy to attempt to seduce Mahomedan Officers or soldiers, that is *any* *Agreement* between any 2 or more persons to *attempt* to seduce Mahomedan troops, even though *no* member of the conspiracy *ever* made *any* *attempt* to seduce any single soldier and the conspiracy never went beyond the stage of bare agreement to seduce soldiers.

TRIAL OF ALI BROTHERS & OTHERS.

If you hold that some persons did agree to this, then you will have to give your opinion—accordingly.

Secondly whether any of the Accused, and if so which, were parties to that Agreement between the first February 1920 and the 30th September 1921, that is to any which, if any of the Accused, *agreed* even for *one* moment between those dates that the seduction of Mahomedan troops from their duty should be attempted.

These are the 2 points for you as assessors to consider and give the Court the benefit of your opinion under the first charge. Remember that under this charge it is *quite immaterial* whether or not any attempt was *actually made* to seduce a single man. Here it is only a question of *agreement* and nothing more. That is where this charge differs from the second charge which is triable by you as a Jury and on which you are the *sole* Judges of facts. Please keep the distinction clear and remember that first as Jurymen you have three questions to decide under the second charge, and that after deciding the second charge, *then*, as assessors you have to consider the two points which arise under the first charge only as against those, if any, of the accused as you hold have not been proved guilty under the second charge.

Such of the accused, as the Court holds were parties to such a Criminal Conspiracy, will be liable to punishment under Section 115 Indian Penal Code read with Section 131 that is on a scale triable by this Sessions Court sitting with assessors.

Before outlining the evidence I will read another section—Section 10 of the Evidence Act, which is important as showing you how in a case of conspiracy after the common intention, the *purpose* of the conspiracy, has first been entertained by *anyone* who is a party to the conspiracy, *anything* said, done or written in reference to the common intention of the conspiracy by any single member of the conspiracy, whether or not he is an accused before the Court, may be relevant against *each* and *every* member of the conspiracy who are before the Court, *both* for the purpose of proving

PUBLIC PROSECUTOR'S OPENING ADDRESS

the *existence* of the conspiracy *and* to show that the persons before the Court are parties to the conspiracy and even though they were totally unaware of any of the facts proved and did not know the persons who did them.

The Public Prosecutor then read Section 10 Evidence Act.

The illustration to the Section will help you to appreciate the exceedingly wide scope of this section. I will therefore read it.

The Public Prosecutor then read illustration.

The first evidence in point of time which will be placed before you are Resolutions passed at a Meeting held in the Town Hall Calcutta on 29-2-20. It would appear from the statement of Accused No. 7 that he was at that meeting. These Resolutions were on 6-3-20 however proposed by No. 7 and carried at the Assam Khilafat Conference. No. 7 was President of the Conference made a speech in which he referred to this subject. In the speech the idea is put forward in a safe conditional form—if the Khilafat does not remain as it was before the War, every Mussalman soldier and Policeman must *cease* to serve. Unfortunately the witness, Deputy Superintendent Sen, has arrived late and it will not be possible to examine him until a late stage of the case.

Next in point of time we have the publication on some date after the 6th September 1920 of the Mutafta Fatwa, which has been published over the signatures of a large number of moulvies including both Accused 2 & 5. This Fatwa lays it down that "All Government services which help the Government are "haram" specially those of the Police and Army." Thereafter the Jamait-ul-Ulema held at Delhi in Rebiul Awal 1339 (November 1920), the second Resolution which laid it down that "Under the present circumstances it is religiously forbidden to have any connection of mutual help or support with the British Government and this included not to serve in the armies of the enemies of the faith and not to render any sort of military assistance.

TRIAL OF ALI BROTHERS & OTHERS.

The proceedings of this Conference, which have been published in pamphlet form, show that Nissar Ahmed, Accused No. 5, spoke in support of this Resolution and that it was passed unanimously.

In February last the All India Khilafat Committee Bombay (which has 5 Secretaries of whom Accused 3 & 7 are two, No. 1 being a member) received 240 copies of this Fatwa which they distributed *free* of charge in the months of February to May 1921, as proved by the stock book of the All India Khilafat Committee.

Two copies of the first edition of this Fatwa were received by the complainant in March in Karachi.

A later edition of this Fatwa was brought out in February 1921 which is signed also by accused No. 4, thereby showing his agreement with it.

Meanwhile the secretaries of the All India Khilafat Committee conceived the idea of reprinting and publishing the *Mutafiq* Fatwa with the proceedings of the Jamayat-ul-Ulema already referred to, together with a foreword written by one of their number Mr Katri, in which he called upon his readers to act upon the commandments of God contained in the Fatwa.

The order for printing five thousand copies of this collection was signed on 14th February 1920, but apparently the time was not then thought ripe for its publication and no copies were obtained from the printer until the 21st July 1921.

The order is actually signed by Mr. Abdul Ghani, Superintendent of the All India Khilafat Committee Office who also received two thousand copies on 21st July 1920 and handed them to the Literature Clerk of the Committee *for distribution*. Mr. Abdul Ghani and the printer Ahmed Mahomed will be called as witnesses and the necessary documents put in evidence.

Mr. Kelly Deputy Commissioner of Bombay C. I. D. will also be examined in the Court

PUBLIC PROSECUTOR'S OPENING ADDRESS.

Meanwhile the accused before the Court had come into the open and from Political platforms had openly propagated the Idea that service in the army was "Haram".

On the 17th June at Poona accused 7 delivered a short speech bearing on the subject. This was taken down in shorthand by Sub-Inspector Muzumdar of the Poona C. I. D. a witness in this case.

Two days later on the 19th June accused No. 1 proposed and No. 3 seconded at a Khilafat Conference at Gokak in Belgaum one of the Resolutions mentioned above in which it was stated that (Read Ex 72) Inspector Joshi and sub-inspector Nirwan will be called to prove this, but the *best* evidence will be copies found in No. 1's kit admitted by him to be correct and proved by Government handwriting expert to be in his handwriting.

The next item is the Resolution at Karachi All India Khilafat Conference on 9th July. (See Ex. 47 of Committing Magistrate) taken down by two practised Urdu shorthand writers.

The first charge alleges that the seven accused were parties to the conspiracy at Karachi. The evidence of this centres round the 6th Resolution of the All India Khilafat Conference. Resolution read out by No. 1 who moved it and impressed its importance. (Detail the part of each accused and their close connection at Karachi),

In addition to the above there was close association of No. 7 with Nos. 1 and 3. They *put up together*.

No. 7 spoke at Subjects Committee morning and evening Re-Karachi Incidents. You will have (i) evidence of the complainant Mr. Zaman Shah who was present at the Conference throughout.

(2). Mr. Mahomed Bux, Deputy Collector will give general evidence on the same points corroborating Mr. Zaman Shah.

(3). The evidence of Lakhat Hussein and Shah Bahadur.

(4). Mr. Burns, Mr. Jeswani and two reporters Urdu shorthand writers of the Daily Gazette and New Times respectively.

TRIAL OF ALI BROTHERS & OTHERS.

(5). Evidence of one sub-inspector Abdul Ghafoor and two Head Constables Mahomed Usman Ghani and Fateh Bahadur who watched premises, heard accused 7 speaking at Subjects Committee and saw No. 6 go there.

(6). You will also have the evidence of Inspector Karamchand re-accused No. 7 going from Karachi to and speaking at Naushahro Feroze on 11th July 1921. He will depose re-his speech there on 11th July 1921.

I will also lead evidence re-the finding of copies of Gokak Resolution in the kit of No. 1.

(1). Mr. Shunker, Jailor of Waltair.

(2). Inspector Abdul Karim Madras C. I. D.

And lastly letters written by accused No. 1 in Karachi Jail will be proved by Mr. Damree, Jailor and

The handwriting expert to Government will formally prove that the two copies of the Gokak Resolution found in the kit of No. 1 are the only wholly and the other partly in the handwriting of accused No. 1 a fact which he does not deny.

The evidence of the *Completed Act*, the substance of the second charge (which you will try as Jury) those leaflets, which were a digest of the Fatwa, were actually sent to Mahomedan officers in the army, will be

(1). Colonel Guyer.

(2). Two Indian Officers.

(3). Will tender evidence of third officer Subedar Ma-Jiaram who is ill and unable to come to Karachi.

Read and explain other charges.

(3). Section 505 Indian Penal Code and Exception-Truth immaterial, if intent proved.

(4). Read Sections 505/109 Indian Penal Code, read Section 107 Indian Penal Code and explain and outline evidence.

PUBLIC PROSECUTOR'S OPENING ADDRESS.

(5). Section 117 Indian Penal Code with 505 and/or 131 Indian Penal Code read and explain Section 117 Indian Penal Code and outline evidence.

(6). Sections 109 with 117 Indian Penal Code outline evidence.

—:O:—

Ex. No. 2.

I having made S. A. state that, my name is *Zaman Shah*, my father's name Mahbub Shah, my age about 40, my religion Mahomedan, Sunni, my caste Hashimi, my calling Deputy Superintendent Police, my residence Karachi.

Examined in chief.

I am complainant in this case. I filed it under the orders of the Government of Bombay and District Superintendent Police Karachi. I produce the order of the Government and the District Superintendent Police. Exhibits 3 and 4. I was at the Karachi City station on the 7th July when the Quetta mail arrived. Accused 6 and 7 arrived by that train. They were taken in procession through the City. Accused 1 and 7 went to the Kanaya Pathshala. That was close to the Pandal where the Khilafat Conference was to be held. The accused 1 and 7 put up there during the conference. So also did Kitchlew accused 3. The conference was held here on 8th, 9th and 10th July. I attended all the sittings of the conference. The proceedings began at about 5 p.m. and lasted up till 10 p.m. on the first day when the presidential address was given by accused 1. The accused 1 said thereafter that a Subjects Committee to draw up the resolutions to be presented to the conference would be formed, which would consist of ten members from Bombay and Sindh and five from the other Provinces and all the members of the Central Khilafat Committee. I had found men on duty at the Kanaya Shala. They reported that the Subjects Committee held a meeting on 9th July between 9 and 11 a.m. and again in the evening about 7 p.m. These were held at the Kanaya Shala. They

TRIAL OF ALI BROTHERS & OTHERS.

were private. The resolution in question was passed on the evening of the ninth. Ex. 3 contains a correct translation. It was originally passed in Urdu. It was passed on the evening of the ninth. The resolution was read out to the audience by accused No. 1.

He said it was the most important resolution and the essence of the conference. It was proposed by accused 2 Hussain Ahmed who spoke in Urdu. Notes of the speeches were taken by Inspector Lakhat Hussain and Sub-inspector Shan Bahadur Khan. Accused No. 4 then translated the resolution into Sindhi. Accused 4 translated the words "Unlawful to remain in the army" into Sindhi by saying "Nokari Karana haram hai". He also spoke on the resolution. Notes of his speech were taken by Inspector Karamchand and Sub-inspector Abdulla. He spoke in Sindhi. Then accused 3 spoke in Urdu. Accused 5 Nisar Ahmed also spoke in Urdu. Notes of their speeches were taken. Accused 6 spoke on the resolution in English. Shorthand notes of his speeches were made by clerks Bassrma and Topandas.

Mahomed Ali said that, if the audience approved of the resolution, they should show concurrence by standing up. All then stood up—Accused 7 was on the dias at the time and he also stood up. I think there was only one resolution to which the audience were asked to stand up in token of concurrence to renew the demands,—*About two thousand persons were present. The people present were mostly Mahomedans. There were several Alims present—More than ten.*

Some of them had brought their followers with them—All the provinces were represented except Bengal. There were students of the Aligarh University—There was much excitement among the audience—There were representatives of news-papers there—An account of resolution 6 and the speeches thereon were published in the Daily Gazette and New Times—No account appeared in the Sind Observer.

PUBLIC PROSECUTOR'S OPENING ADDRESS.

I have seen the Muttak-al-Fatwa—I first got a copy of it in last March, two copies, from a Pathan in Karachi—I produced one of the copies in the Lower Court—I have got it here Ex. 5 inter alios it purports to be signed by accused 2 and 5—I got a later edition in August Ex. 6—It purports to be signed by accused 2, 4, 5—

The proceedings on the evening of the 9th began at 9-55 and ended at 1-25 a. m.

—:o:—

Ex. No. 7.

I having made S. A. state that, my name is Frank, my father's name Brewster, my age about 45, My religion Christian, my calling Handwriting Expert, my residence Simla.

Examined in chief.

I am handwriting expert to Government. I see Exhibits 7 and 8. They were sent to me for examination. Exhibits 9, 10, 11, 12 and 13 were also sent. I compared the handwriting of the other exhibits. Exhibit 7 is in the same handwriting as the other four English documents sent to me. The ink portion of eight is in the same hand as the Urdu document sent to me. I sent my opinion to the City Magistrate. I had received these documents from the City Magistrate in a sealed cover.

The seals were intact.

(Sd). B. C. KENNEDY,

24-10-21.

Judicial Commissioner of Sind.

—:o:—

Ex. No. 14.

I having made S. A. state that, my name is Mahomed Baksh my father's name is Illahi Buksh, my age about 30 years, my religion Mussalman, my caste Sheikh, my residence Hala, my calling Deputy Collector.

Examined in chief.

I was present in Karachi in July last at the Khilafat Conference. I remember resolutions 5 and 6 being put before the con-

TRIAL OF ALI BROTHERS & OTHERS.

ference. The order of Government Ex. 3 contains a correct translation of resolution No. 6.

Accused 1 read it out and introduced it. It was proposed by accused 2, accused No. 4 translated it into Sindhi. He spoke on it.

Accused 3 Kitchlew seconded the resolution. After him accused 5 spoke. Then accused No. 6 spoke.

Mahomed Ali then put the resolution to meeting and asked those who concurred in it to stand up. All stood up; people between 2 and three thousand were present on that night. The audience was mostly Mussalman. There were some of the Ulema present; but I cannot say how many. I do not remember if there were any Sindhi Ulema present.

The speeches caused some excitement—Much excitement. I had gone there on duty. The meeting was open, but admission was by ticket.

(Sd). B. C. KENNEDY,
24-10-21. Judicial Commissioned of Sind.

—:O:—

Ex. No. 15.

I having made S. A. state that, my name is Lakhat Hussain, my father's name is Tassadu Hussain, my age about 40 years, my religion Mussalman Shia, my caste Sayed, my calling Inspector C. I. D.

Examined in chief.

I was present at the Khilafat Conference in July. I had been sent there to report speeches made in Urdu. I take down these speeches in shorthand. I have been doing this work for some years. I was present at the sitting of the conference on the 8th of July. Mahomed Ali delivered his Presidential address. He asked for election of a Subjects Committee consisting of members from each branch. I took down what he said. I have transcribed those notes into longhand. Ex. 16 is the true transcript of my notes—He said (Accused 1) what is written there—Ex. 17 is that translation.

DEPOSITION OF LAKHAT HUSSAIN.

It is all that he said on this subject. I was present at the Conference on the 9th July when the 6th Resolution was put to the meeting. It was read by the President Mahomed Ali. He said a few words, I took them down Ex. 18.

It represents what he said accurately, Ex. No. 19 is the translation. Accused 2 made a speech and proposed it. I took down his speech in shorthand. I have prepared a transcript and translation Ex. 20 and 21. Accused 2 actually said what I have recorded there. After that accused 4 spoke in Sindhi thereon. Kitchlew spoke (Accused 3). I took down Kitchlews statement. I have prepared a transcript and translation Ex. 22 and 23. He said what I have transcribed it.

After No. 3, accused 5 spoke in Urdu language. I took it down in shorthand. I prepared a true transcript in long hand in Urdu Ex. 24, and the translation Ex. 25. Accused 5 said what I have actually written there.

After that accused No. 6 spoke in English, but I did not record that. The President made a few remarks. I took them in shorthand and transcribed them in Urdu. The President spoke in Urdu, Exs. 26 & 27. Accused No. 1 actually said what I have recorded in my transcript. I have got my original Urdu shorthand notes. The cries of Allah-O-Akbar etc., were uttered by the audience. There was some enthusiasm about the Resolution among the audience.

The original residence of the accused is Rampur State. I know him personally. He has resided in Rohilkhand and other places in Hindustan and in Aligarh in connection with the College. I do not know if he was in service of Rampur State. Accused 2 is a resident of Deoband District, Saharanpur U. P. ; Nisar Ahmed is a resident of Cawnpur. Shaukat Ali is originally of Rampur State. He does not now live much in North India, but in Bombay. Mahomed Ali was educated at the Aligarh College. I do not know if they are of Shia origin. I do not know about Mahomed Ali's diplomas.

Sd. B. C. KENNEDY,
Judicial Commissioner of Sind.

24-10-21.

TRIAL OF ALI BROTHERS & OTHERS.

Ex. No. 28.

I having made S. A. state that my name is Shah Bahadur Khan, my father's name is Khan Bahadur Khan, my age about 35 years, my religion Musalman, my caste Pathan, my calling Sub-Inspector C. I. D., my residence Allahabad.

Exam. in Chief.

I attended the meeting of the Khilafat Conference in Karachi last July as a shorthand reporter. I took them in Urdu language. I am accustomed to take down speeches in Urdu. I was present on the 9th July. Accused No. 1 read out the resolution No. 6. I took it down as he read it out. He made some introductory remarks. I made a correct transcript from the Urdu shorthand into longhand and a translation Exs. 29 and 30.

The resolution was then proposed by accused No. 2 in Urdu. I took down his speech in shorthand. It is a correct transcript from my notes. The translation is Exs. 31-32.

Then accused No. 4 spoke in Sindhi.

Then accused No. 3 Kitchlew.—I took down his speech in shorthand. I prepared a transcript of it. I produced this transcript in the Court of the City Magistrate.

I see transcript. I identify it. (I do not propose to have these duplicate transcripts and translations put in unless the accused wish to cross examine on them.)

Thereafter accused No. 5 spoke in Urdu. I took down shorthand notes of his speech. I made a transcript of his speech in longhand. I produced that transcript in the Court of the City Magistrate, I identify it.

After accused No. 5, accused No. 6 spoke. The resolution was put to the meeting by accused No. 1 Mahomed Ali. I have got my original notes here from which I prepared the transcripts.

Sd. B. C. KENNEDY,
Judicial Commissioner of Sind.

25-10-21.

DEPOSITION OF BASSARMAL

Ex. No. 33.

I having made S. A. state that my name is Bassarmal, my father's name is Jawharmal, my age about 28 years, my religion Hindu, my caste Amil, my calling Shorthand writer, my residence Karachi.

Exam. in Chief.

I was present at the sittings of the All India Khilafat Conference in July last. I took down in shorthand the speeches which were made in English. I took down a speech made by the accused No. 6 on the evening of the 9th July. That speech was made on Resolution No. 6. I prepared a transcript from my shorthand notes Ex. 34. The transcript is correctly prepared. It represents what accused No. 6 said, Ex. 35.

25-10-21.

Sd. B. C. KENNEDY,
Judicial Commissioner of Sind.

—:o:—

Ex. No. 36.

I having made S. A. state that my name is Teckchaud, my father's name is Hemandas, my age about 29 years, my religion Hindu, my caste Amil, my calling Head Master New High School, Karachi.

Examined in Chief.

I attended the proceedings of the Khilafat Conference last July. I took notes of the Resolution and the speeches made on it. I wrote a report from the notes. Those were the speeches of the Resolution itself. I got a transcript from the New Times Paper. There was a special Sunday bulletin of the New Times from which I got it. I sent in my report on Monday 11th. Ex 37.

25-10-21.

Sd. B. C. KENNEDY,
Judicial Commissioner of Sind.

TRIAL OF ALI BROTHERS & OTHERS.

Ex No. 38

I having made S. A. state that my name is William Rose Burns, my age about 50, my religion Presbyterian, my calling Journalist, my residence Karachi.

Examined in Chief.

I am Assistant Editor Daily Gazette. I received a report of the proceedings on the evening of 9th July from Tekchand. That was Ex. 37. I produced this report in the Lower Court. One page is missing. I published it correctly in my newspaper vide issue of 11th July Ex 39

25-10-21.

Sd. B. C. KENNEDY,
Judicial Commissioner of Sind.

—:O:—

Ex. No. 40

Deposition of witness No. for the Crown.

I having made S. A. state that my name is Hariram, my father's name Shewaram, my age about 21, my religion Hindu, my caste Lohana, my calling Reporter New Times, my residence Karachi.

Examined in Chief.

I attended the Karachi Khilafat Conference in July. I took notes of those proceedings. I gave the copies of those notes to Mr. Jeswani in English. I speak Sindhi. I understand the resolution translated into Sindhi.

25-10-21.

Sd. B. C. KENNEDY,
Judicial Commissioner of Sind.

DEPOSITION OF JESWANI.

Ex. No. 41.

Deposition of witness No. for the Crown.

I having made S. A. state that my name is Tikamdas, my father's name is Khemchand Jeswani, my age about 27, my religion Hindu, my caste Lohana, my calling Editor New Times, Karachi my residence Karachi.

Examined in chief.

Last witness attended the Khilafat Conference as a reporter of my paper. He gave me a report of the proceedings of 9th July. I published that report in my issue of Monday the 11th. Ex. 42. I have not got the original record. I eventually got authentic copy of this resolution from the Khilafat Committee in Karachi I published that in my issue of the 18th. I asked the secretary of the Committee for copies of the resolutions and received them from him. The resolution No. 6 is that numbered 7, Ex. 43. I have not got the resolution in original.

25-10-21.

(Sd). B. C. KENNEDY,
Judicial Commissioner of Sind.

—:o:—

Ex. No. 44.

Deposition of witness No. for the Crown.

I having made S. A. state that my name is Abdul Ghafur, my father's name Zardar Khan, my age about 38, my religion Mahomedan, my caste Pathan, my calling Sub-inspector Police, my residence Sind C. I. D. (*sic*)

Examined in chief.

I went to the Kanaya Path Shala on the morning of the 9th July. Two head constables were on duty there. I asked them what was going on. They said there was a meeting of the Subjects Committee. I could recognise the voice of accused No. 7. I have frequently heard him before. He speaks with pauses because he is fat. I was there for half or three quarters of an hour.

TRIAL OF ALI BROTHERS & OTHERS.

The Subjects Committee dispersed at about 11 or so a.m. I went round in the evening. That was about seven or seven thirty p.m. Head constable Keshowlal and Usman Ghani were on duty there. They told me that a meeting of the Subjects Committee was held there. I got a copy of the Mutfika Fatwa Ex. No. 6. I handed it over to the Deputy Superintendent. It was handed to me by a Pathan in Karachi City. He told me that I was employed in the Police and therefore I should read it.

(Sd). B. C. KENNEDY,

25-10-21.

Judicial Commissioner of Sind.

—:O:—

Ex. No. 45.

Deposition of witness No. for the Crown.

I having made S. A. state that, my name is Fateh Bahadur, my father's name Lakshmi Parsad, my age about 32, my religion Hindu my caste Kayash, my calling Head Constable C. I. D., my residence Karachi.

Examined in chief.

I was on duty at the Pathshala during the Khilafat Conference Accused Nos. 1, 3 and 7 put up there during it. On the morning of the 9th July I was there from 8-28 to noon. I saw Shaukat Ali and Dr. Kitchlew in one gari at 9-30 a.m. Mahomed Ali in another. Many persons came there including No. 6. There was a meeting of the Subjects Committee there. Accused No. 7 I could hear him speaking. After 11 a.m. the Subjects Committee broke up. I was on duty there after 12 midnight. At about 1-30 a.m. I saw accused Nos. 1, 3 and 7 returning from the conference.

(Sd). B. C. KENNEDY,

25-10-21.

Judicial Commissioner of Sind.

—:O:—

DEPOSITION OF KARAMCHAND.

Ex. No. 46.

Deposition of witness No. for the Crown.

I having made S. A. state that, my name is Usman Gani, my father's name is Mahomed Ismail, my age about 28, my religion Mussalman, my caste Sheik, my calling Head Constable C. I. D., my residence Karachi,

Examined in chief,

I was on duty at Karachi during a meeting of the Khilafat Conference at the Pathshala on 9th July from 7 a.m. to 12 noon. I saw some people come there for the Subjects Committee. Mahomed Ali and Shaukat Ali, Dr. Kitchlew and Shanker Acharaya. I recognised the speech of Shaukat Ali. I was on duty there that evening. I heard in the evening the voice of Shaukat Ali. He spoke in a high voice. I had heard him speaking before.

(Sd). B. C. KENNEDY,

25-10-21.

Judicial Commissioner of Sind.

—:O:—

Ex. No. 47.

Deposition of witness No, for the Crown,

I having made S. A. state that, my name is Karamchand, my father's name Ramlal, my age about 39, my religion Hindu, my caste Khatri, my calling Inspector, my residence Karachi.

Examined in chief.

I attended the sittings of the last Khilafat Conference in July in Karachi. I was present on the evening of the ninth of July when the sixth resolution was passed. The resolution is correctly translated in Exhibit No. 3.

It was translated into Sindhi by accused No. 4. He also spoke in support of the resolution. I took notes of it. All of the accused except Shaukat Ali spoke in support of that resolution.

TRIAL OF ALI BROTHERS & OTHERS.

I left Karachi next day on the 10th. I left by the Punjab mail. Some of the accused Nos. 3 and 7 left by the same mail. Accused No. 7 went to Naushero Feroz. Accused 3 went direct towards Sukkur. Naushero Feroz is in Nawabshah District in Sindh. I went there also. There was the first political conference of the Sahiti district there. Shaukat Ali was president. There were two sittings one in the morning and one in the evening. Accused made two speeches one at each sitting. I took notes and have been doing so far the last five years.

Accused No. 7 spoke in Urdu. I am well acquainted with Urdu. I recorded it in Urdu. I have produced those notes in the Lower Court. This is the fair copy and the original Exhibit No. 42. The translation is 56. This is the evening speech. It is a correct translation of what accused No. 7 did say.

Dr. Choithram translated his speech into Sindhi.

(Sd). B. C. KENNEDY,
25-10-21. Judicial Commissioner of Sind.

—————:O:—————

Ex. No. 50.

Deposition of witness No. for the Crown.

I having made S. A. state that, my name is Mahmudshah, my father's name is Nawabshah, my age about 43, my religion Mussalman, my caste Sayad, my calling District Superintendent Police, my residence Thar and Parkar.

Examined in chief

I prepared Ex. No. 17 it is a correct translation of Ex. No. 16. I prepared Ex. No. 19—It is a correct translation of Ex. No. 18—Ex. No. 21 is a true translation of Ex. No. 20—Ex. No. 23 is a true translation of Ex. No. 22—Ex. No. 25 is a true translation of Ex. No. 24—Ex. No. 27 is a true translation of Ex. No. 26—Ex. No. 30 is a true translation of Ex. No. 29—Ex. No. 32 is a true translation of Ex. No. 31.

DEPOSITION OF ABDUL GANI.

I also in the City Magistrate's Court prepared true translation of the speeches of Nisar Ahmed and Dr. Kitchlew—The leaflet shown to me Ex. No. 51 is accurate Ex. No, 52,—Ex, No, 49 is a true translation of 48.

(Sd). B, C, KENNEDY,
25-10-21, Judicial Commissioner of Sind.

—:o:—

Ex No. 53

Deposition of witness for the Crown.

I having made S. A. state that my name is Abdul Gani, my father's name Barkat, my age about 30, my religion Mussalman, my caste Rajput, my calling Superintendent Central Khilafat Committee, Bombay.

Examined in Chief.

The book is the stock book of the Central Khilafat Committee. Mr. Kelly came to search the Central Khilafat Committee in Bombay. He took this book away from the office, as a rule I send out the literature at my own responsibility, entries in the book are made by the clerk in charge. It is his duty to enter in the book literature which is received and which goes out. Entry No. 30 in the month of February refers to receipt of 240 copies of Mutafik Fatwa. During the month 151 were issued Ex. 54. The clerk who distributed them made the entries. He who distributed them made the entries. It was the clerk's duty to distribute them and enter them in the book. Item No. 30 shows a balance in March of 89 copies. In April there is an opening balance of 27 copies. May balance of 26 copies. Exs. 56 and 57. June shows no balance Ex. 53. In July 2,000 copies were received. Ex. 59.

We charge for the literature that we issue to the public. The first 200 copies were issued to the visitors free. I sent the Fatwa to be printed at the Mustafai Press. I did it at my own responsibility. The title page of the pamphlet bears an endorsement signed by me. Ex 60. I signed that order on 14th February 1921. I signed it in February. I dont remember whether I went to the

TRIAL OF ALI BROTHERS AND OTHERS.

press then; very likely I sent it to the press later on. I received 2300 copies from the press. Ex 61 is the receipt signed by me. I handed over those copies to the clerk with instructions to hand them over to anyone who would pay 4 annas each and not to send them outside. I do not know that any copies of either of these pamphlets were sent out with cyclostyled letter signed by Shaukat Ali. I don't think that Shaukat Ali ever signed such letters the letters used to be issued by some clerk in his name.

Shaukat Ali is one of the Secretaries of the Central Khilafat Committee. Dr. Kitchlew is one of the Secretaries, he is deputed to work in Punjab. No. 1 is one of the members of the Khilafat Committee. There are 200, Shaukat Ali does not spend much of his time in Bombay, the introduction to the papers is sent for publication to the Mustafai Press as written by Khatri 62.

Among the papers was the Muta'fik Fatwa and the proceedings of Jamait Ulema-al-Hind Ex 62.

These proceedings were printed. I don't know who has published it.

Sd. B. C. KENNEDY,
25-10-21. Judicial Commissioner of Sind.

—:O:—

Ex No. 63

I having made S. A. state that my name is Mahomed, my father's name Ahmed, my age about 35, my religion Mussalman, my caste Sheikh, my calling Printer, my residence Bombay.

Examined in Chief.

The name of my Press is Mustafai. I received Ex 60 together with the copy of Muttafik Fatwa and the proceedings for printing, last witness Abdul Ghani gave them to me for printing, the original order was for 5000, but afterwards I was asked to print 2000 only. I delivered 2000 copies on the 21st July. I have Abdul Ghani's signature in the delivery book.

Sd. B. C. KENNEDY,
25-10-21. Judicial Commissioner of Sind.

DEPOSITION OF VITHAL.

Ex No, 64

I having made S. A. state that my name is Vithal, my father's name is Ramchandra, my age about 35 years, my religion Hindu, my caste Brahmin, my calling Police Sub-Inspector C. I. D., my residence Poona.

Examined in Chief.

Three of the accused Mahomed Ali, Shaukat Ali and Kitchlew. There was a Political Meeting that evening. I attended it. I write shorthand in Marathi and English. I am accustomed to taking down speeches in shorthand. Shaukat Ali made a speech at that meeting; at the end of the meeting funds were being collected. Shaukat Ali spoke in English and Urdu. I took English not English and Urdu in Marathi. I made a true transcript of my shorthand into long hand.

I made it half an hour afterwards. Ex 65 is what Shaukat Ali said. I made a translation into English. (Ex 66).

There were 3 or 4000 persons present. About half were Mahomedan. There are many Indian troops stationed at Poona I can produce my original shorthand notes when required

Sd. B. C. KENNEDY,
25-10-21. Judicial Commissioner of Sind.

—:0:—

Ex No. 67

I having made S. A. state that my name is Narayen, my fathers name is Ganesh, my age about 38 years, my religion Hindu my caste Mahratta Brahmin, my calling Inspector Police, C. I. D. my residence Poona.

Examined in Chief.

I was present at Gokak when the Belgaum District Khilafat Conference was held.

TRIAL OF ALI BROTHERS & OTHERS.

Only one Resolution was put before that Conference. Accused No. 1 proposed it. It was read out in Urdu; then in English. I took down what I could. I write Marathi shorthand.

I took down the Resolution when it was read in Urdu. I translated into Marathi and took it in Marathi shorthand. I took it in English longhand. A few remarks were made by accused No. 1 while moving the resolution. I took it in Marathi shorthand. I have prepared a transcript Ex No. 68 and 69.

About 1500 persons were present. 50 per cent were Mahomedans. Kitchlew accused No. 3 seconded that Resolution. I have the original shorthand notes with me from which the transcript was made.

Sd. B. C. KENNEDY,
25-10-21. Judicial Commissioner of Sind.

—————:O:—————

Ex No. 70

Deposition of witness No. for the Crown.

I having made S. A. state that my name is Phulchand, my father's name Purnamchand, my age about 37, my religion Hiudu, my caste Marwari, my calling Sub-Inspector of Police, my residence Poona.

Examined in Chief.

I attended the Belgaum Khilafat Conference at Gokak that was on 19th July last. Only one resolution was put before that Conference. The resolution was read out to the audience by Mahomed Ali. He read it out in Urdu and English. I took the resolution down. I took down in Marathi shorthand. I have prepared a true transcript in longhand. Exs. 71 and 72. Mahomed Ali proposed the resolution it was seconded by No. 3. About 1500 attended the Conference.

Sd. B. C. KENNEDY,
26-10-21. Judicial Commissioner of Sind.

DEPOSITION OF SHANKER.

Ex, No, 73,

Deposition of witness No. for the Crown.

I having made S. A. state that, my name is William Gristopher Shanker, my age about 25, my religion Protestant, my calling Jailor, my residence Wizigapatam.

Examined in chief.

Accuseed No. 1 was brought to my jail on 14th September at about 2-40 p.m. The D. I. G. of the C. I. D. and the Railway police brought him there. Mr. Cunningham brought him. The jail is about one and half a mile from the station. He came in a motor. His kit followed in another motor accompanied by his servant and a policeman. The Inspector asked me to keep the kit safely till he got an order, I locked up the kit in my office, Next day the inspector turned up with a letter addressed to the Jail Superintendent asking me to search the kit and take possession of all papers. I suggested that Mahomed Ali should be present. I sent for Mahomed Ali and in his presence I opened the trunk. Several papers were found which were placed on the table. I had a list made out by the Deputy Jailor. I read the English papers and asked Mahomed Ali to read the Urdu papers and he told us the contents of them. The contents were noted by the Deputy Jailor. The list was then signed by Mahomed Ali. Ex. No. 74. Among them were the Urdu and English copies of the Gokak resolution.

I then put away the papers and the list. I took them out on the morning of the 17th. The District Magistrate came to the jail and I placed these papers before him on the table. Mahomed Ali was sent for and the District Magistrate informed him that they were to be seized. Mahomed Ali asked that certain papers which were in that bundle should be sent to Begum Mahomed Ali. Papers were then wrapped in a newspaper and sealed by the District Magistrate. The packet was handed over to an Inspector of the C. I. D. who called at the jail. I was more or less present at the conversation between the District Magistrate and the accused.

26-10-21.

(Sd). B. C. KENNEDY,
Judicial Commissioner of Sind.

TRIAL OF ALI BROTHERS & OTHERS.

Exhibit No. 75.

I having made S. A. state that my name is Nariman, my father's name is Hormusji, my age about 29, my religion Parsi, my calling Jailor, District Jail, my residence Karachi.

Examined in chief.

Accused was kept in a separate room in the jail. He has written some letters in my presence to the District Magistrate Karachi Exs. Nos. 10 and 11. He also wrote two telegrams in my presence Exs. Nos. 12 and 13. I kept the originals and despatched the copies. Accused No. 1 also wrote an urdu letter in my presence Ex. No. 9. I initialled these documents so that I might identify them.

(Sd). B. C. KENNEDY,

26-10-21.

Judicial Commissioner of Sind.

————— :o: —————

Ex. No. 76.

I having made S. A. state that my name is Sunder Nath Sen, my age about 42, my religion Hindu, my caste Badha, my calling Deputy Superintendent C. I. D. Sylhet.

Examined in chief.

I attended the Assam Khilafat Conference in March 1920 on the 6th March. The accused No 7 was present. He delivered a speech at the conference. I took notes of it, he asked some resolutions to be passed, Abdul Hamid read out the resolutions. Shaukat Ali asked him to read them out. Those resolutions had been passed on the 29th February in the town hall Calcutta. The resolutions which were passed in the Town Hall Calcutta were published in the Amrita Bazar Patrika and other newspapers. Accused No. 7 handed Abdul Hamid that copy of the Amrita Bazar Patrika and asked him to read out the resolutions then in English. They were read out in English and Urdu. I had a copy of the same paper. I checked the reading and translation. They were correctly read out. I have my original notes made in the meeting, I made a fair copy. That was in

DEPOSITION OF GOWYER.

the evening. I made it with my own hand. I have it with me
Ex. No. 77.

I saw Shaukat Ali in Calcutta at the time of the conference
there in February.

(Sd). B. C. KENNEDY,

26-10-21.

Judicial Commissioner of Sind.

—:o:—

Ex. No. 78.

I having made S. A. state that my name is Bernard Edward
Gowyer, my age about 42 years, my religion Church of England, my
calling Colonel of the staff, my residence Karachi.

Examined in chief.

Ex. No. 78 is the form on which soldiers are enlisted. Clause
14 has 2 paras—Para 2 refers only to Reservists—Ex. No. 80 is the
enrolment form of soldiers who enlisted during the period of War.
All soldiers now serving have been enlisted under one or the other of
these forms—Soldiers are not allowed to go till a definite period has
elapsed. I cannot say whether they are allowed to buy their dis-
charge. The people enlisted under form Ex. No. 80 had to serve
during the duration of the war and for six months thereafter—The
date of the end of the war was fixed for 1st September. The people
enlisted under Form 79 have to serve for 4 years, or five or for ten.
He cannot leave the army before the period he has engaged for, is
over. He may receive his discharge after his period of service is
over on two conditions, namely that war is not existent or imminent
and that the unit to which he belongs is not ten per cent below its
establishment Squadron or Company. These two conditions appear
in para 1 clause 14 of Ex. No. 79.

When necessary a recruiting party is sent out to the area
whence recruits are drawn. They consist of men of Regiment under
command of an officer Indian or British. The object is to induce
men to enlist in the army. That is the only method of keeping the
regiment up to strength. If the men in the recruiting detachments
did not do their best to induce men to join, it would be impossible
to get them.

TRIAL OF ALI BROTHERS & OTHERS.

If a Commissioned officer wishes to resign he would tender his resignation to the Commander of the Company who would submit it to the Commander-in-Chief who would give or refuse permission to resign. Except with such a permission and Indian officer cannot resign—I am Colonel on the staff of the Western Command.

I have received some leaflets asking soldiers not to serve in the army. I produced such leaflets in the Lower Court. Ex. No. 81 a, b, c translation 52. They are in the same state as when I got them I have received other copies in addition to these three. They have reached ten different battalions of the Western Command.

I have received a telegram from Officer Commanding 98th Infantry at Baroda to the effect that Subedar Major Jiram is on sick leave, Ex. No. 82—I then telegraphed to the Deputy Commissioner Gurgaon if he was fit to travel and if not to send me affidavit—I received the reply Ex. No. 83—The affidavit has not been received. I will send it when received.

(Sd). B. C. KENNEDY,
Judicial Commissioner of Sind.

26-10-21.

————:O:————

Colonel Gowyer Continued :—

There is no provision for the resignation of sepoy of Military service before the period has elapsed for which they have signed on, even on payment—I have just looked up the point.

(Sd). B. C. KENNEDY,
Judicial Commissioner of Sind.

26-10-21.

————:O:————

DEPOSITION OF AZIZ U-DIN.

Ex. No. 84.

I having made S. A. state that my name is Aziz U-din, my father's name is Sharafdin, my age about 35 years, my religion Mussalman, my caste Jat, my calling Subedar 5th Light Infantry, my residence Quetta.

Examined in chief.

On the first June last the Subedar Major of my Regiment went on leave. For two months I acted for him. The post of the Regiment was censored during those months. I found ten such leaflets in the post of my regiment during those two months. Some of them were received on 20th July and others during the last week of July. I have produced one of these leaflets Ex. No. 85. It is in the original envelope. They were addressed to the Mahomedan Subedars of the Regiment.

There are one company of Punjabi Mahomedans and one Company of United Provinces Mahomedan Rajputs. They are not likely to pay very much attention to this sort of leaflets. They would pay no attention to the opinion of Mahatma Gandhi or of a Hindu Bawa like accused No. 6.

26-10-21.

(Sd). B. C. KENNEDY,
Judicial Commissioner of Sind.

Ex. No. 86.

I having made S. A. state that my name is Mahomed Hussain, my father's name is Turves Ali, my age about 45 years, my religion Mussalman, my caste Hazara, my calling Subedar 106 Hazaras, my residence Quetta.

Examined in chief.

My company was attached to the second Pioneers at Lahore. My regiment was in Mesopotamia. My company was sent to the Depot in Quetta in December 1920. I received this paper Ex. No. 87 in that envelope. I received five more a week later. Four of them were addressed to four Subedars of my regiment who had been demobilized and one to a Jamadar of my company.

I opened the envelopes as I was on duty that week.

26-10-21.

(Sd). B. C. KENNEDY,
Judicial Commissioner of Sind.

TRIAL OF ALI BROTHERS & OTHERS.

Ex. No. 97.

IN THE COURT OF THE JUDICIAL COMMISSIONER OF SIND.

Case No. 33 of the General Calendar for 1921.

The King Emperor.

Versus.

Mahomed Ali and six others.

Examination of the accused Mahomed Ali.

Is your statement Ex. No. 90 correct?

I dont know.

Did you move the resolution Ex. No. 3?

No. But I introduced it or a similar resolution. It was proposed by accused No. 2.

Did you approve of that resolution in your introductory speech?

I said it was the marrow of the conference.

Did you believe that the resolution if passed would be published?

Yes.

Did you expect that copies of that resolution would reach the Indian Troops?

I thought it was possible that some copies might reach them though they are very badly segregated.

Did you expect effect on the troops?

I feared they were so demoralised by the Government that it would not produce much effect as fifty years ago but I hoped it would produce some effect and I am glad to see that it has produced some.

Is there any truth in the idea that you and the other accused agreed together to seduce the soldiers.

No, we never discussed it at any time.

EXAMINATION OF MAHOMED ALI.

But as a conscientious Moslem I and the other five accused must feel together that this is our duty to feel that Muslims must not continue in the army in the circumstances actually existing at the time.

26-10-21.

Sd. B. C. KENNEDY,
Judicial Commissioner of Sind.

Certified that the above examination of the accused Mahomed Ali has been taken in my presence and in my hearing and contains a full and true account of the statement made by him.

Dated this 26th day of October 1921.

25-10-21.

Sd. B. C. KENNEDY,
Judicial Commissioner of Sind.

—:O:—

Note from diary of the case :—

Accused No. 1 asks that he should be allowed to put in written statement. He was told that he could not. He again said so and when asked whether he wished to say anything in explanation of the evidence, he replied that he wished to explain all the circumstances connected with the case. The Court said that he would be allowed to do that at a later stage.

Then Mr. Mahomed Ali applied to be allowed to make a statement. The following order was then dictated to the shorthand writer.

Order :—Moulana Mahomed Ali applies to be allowed to make a statement as to his position. At this point it seems to me he is entitled to do nothing of the sort. All that he is bound to do is to answer the questions put by the Court but he will of course be permitted to address the Jury at the proper time.

26-10-21.

Sd. B. C. KENNEDY,
Judicial Commissioner of Sind.

TRIAL OF ALI BROTHERS AND OTHERS.

Ex. No. 98.

**IN THE COURT OF THE JUDICIAL COMMISSIONER
OF SIND.**

SESSIONS COURT JURISDICTION.

Case No. 33 of the General Calendar for 1921.

The King Emperor.

Versus.

Mahomed Ali and six others,

Examination of the accused Moulvi Hussain Ahmed.

I do not wish to answer any questions.

(Sd'. B. C. KENNEDY,

26-10-21.

Judicial Commissioner of Sind.

Certified that the above examination of the accused Moulvi Hussain Ahmed has been taken in my presence and in my hearing and contains a full and true account of the statement made by him.

Dated this 26th day of October 1921.

(Sd). B. C. KENNEDY,

26-10-21.

Judicial Commissioner of Sind.

—:O:—

Ex. No. 99.

**IN THE COURT OF THE JUDICIAL COMMISSIONER
OF SIND.**

SESSIONS COURT JURISDICTION.

Case No. 33 of the General Calendar 1921.

The King Emperor.

Versus

Mahomed Ali and six others.

Examination of the accused Dr. Saiffuddin Kitchlew.

Q. Are you prepared to answer any question ?

A. Accused refused to answer.

Sd. B. C. KENNEDY,

26-10-21.

Judicial Commissioner of Sind.

Certificate to be attached to the examination of an accused person.

(Section 364 of the Code of Criminal Procedure).

Certified that the above examination of the accused Dr. Saiffuddin Kitchlew has been taken in my presence and in my hearing and contains a full and true account of the statement made by him.

Dated this 26th day of October 1921.

Sd. B. C. KENNEDY,

26-10-21.

Judicial Commissioner of Sind.

EXAMINATION OF PIR GULAM MUJADID.

Ex. No. 100.

**IN THE COURT OF THE JUDICIAL COMMISSIONER
OF SIND.**

SESSIONS COURT JURISDICTION.

The King Emperor.

Versus.

Mahomed Ali and 6 others.

Examination of the accused Pir Gulam Mujadid.

Q. Are you prepared to answer the questions of the Court?

A. No.

(Sd). **B. C. KENNEDY,**

26-10-21.

Judicial Commissioner of Sind.

Certified that the above examination of the accused Pir Ghulam Mujadid has been taken in my presence and in my hearing and contains a full and true account of the statement made by him.

Dated this 26th day of October 1921.

(Sd). **B. C. KENNEDY,**

Judicial Commissioner of Sind.

—:o:—

Ex. No. 101.

**IN THE COURT OF THE JUDICIAL COMMISSIONER
OF SIND.**

SESSIONS COURT JURISDICTION.

Case No. 33 of the General Calendar for 1921.

The King Emperor.

Versus.

Mahomed Ali and six others.

Examination of the accused Moulvi Nisar Ahmed.

Q. Are you prepared to answer the questions of the Court?

A. No, unless my statement is filed.

(Sd). **B. C. KENNEDY,**

26-10-21.

Judicial Commissioned of Sind.

TRIAL OF ALI BROTHERS & OTHERS.

Certificate to be attached to the examination of an accused person.

Section 364 of the Code of Criminal Procedure.

Certified that the above examination of the accused Moulvi Nisar Ahmed has been taken in my presence and in my hearing and contains a full and true account of the statement made by him.

Dated this 26th day of October 1921.

(Sd). B. C. KENNEDY,
Judicial Commissioner of Sind.

—————:0:—————

Ex. No. 102.

IN THE COURT OF THE JUDICIAL COMMISSIONER
OF SIND.

Case No. 33 of the General Calendar for 1921.

The King Emperor.

Versus.

Mohamed Ali and 6 others.

Examination of the accused Bharti Krishna Tirathjee.

Q. Did you support this resolution at the Karachi Conference?

A. We did not know the details till after coming to the Karachi Jail.

I did not even know that there was any military question raised on the agenda at the time of the conference. The first time I heard of it was when I got here—All I did was to give my ecclesiastical support to Hindu—Muslim unity and to the protection of the Khilafat.

Had I known that it was on the agenda I should have said that it was the duty of Mahomedans to follow their religious law accurately just as it is the duty of Hindus to do so.

Refused to sign.

26-10-21.

Sd. B. C. KENNEDY,
Judicial Commissioner of Sind.

EXAMINATION OF SHAUKAT ALI.

Certified that the above examination of the accused Bharti Krishna Tirathji has been taken in my presence and in my hearing and contains a full and true account of the statement made by him.

Dated this 26th days of October 1921.

Sd. B. C. KENNEDY,
Judicial Commissioner of Sind.

—:O:—

Ex. No. 103.

IN THE COURT OF THE JUDICIAL COMMISSIONER
OF SIND.

SESSIONS COURT JURISDICTION.

Sessions Case No. 33 of the General Calendar for 1921.

The King Emperor.

Versus.

Mahomed Ali and 6 others.

Examination of the accused Shaukat Ali.

Refuses to answer questions unless allowed to file a statement.

(Sd). B. C. KENNEDY,
26-10-21, Judicial Commissioner of Sind.

Certificate to be attached to examination of an accused person.

Section 364 of the Code of Criminal Procedure.

Certified that the above examination of the accused Shaukat Ali has been taken in my presence and in my hearing and contains a full and true account of the statement made by him.

Dated this the 26th day of October 1921.

(Sd). B. C. KENNEDY,
Judicial Commissioner of Sind.

—:O:—

TRIAL OF ALI BROTHERS & OTHERS.

Ex. No. 104.

**IN THE COURT OF THE JUDICIAL COMMISSIONER
OF SIND.**

SESSIONS COURT JURISDICTION.

Case No. 33 of the General Calendar for 1921.

Crown.

Versus.

Moulana Mahomed Ali and others.

The case for prosecution having been brought to a close, the accused persons aforesaid are called upon to enter upon their defence and to produce evidence.

They say they do not want to call evidence.

Sd. B. C. KENNEDY,

26-10-21.

Judicial Commissioner of Sind.

—————:O:—————

PUBLIC PROSECUTOR ADDRESS TO THE JURY.

ADDRESS OF THE PUBLIC PROSECUTOR IN SIND TO THE JURY.

Gentlemen,—You have the charges before you. I will deal with each charge in turn. Please excuse me if I travel over some of the same ground as I touched on when opening.

You will remember that Section 131 Indian Penal Code renders it a criminal offence to *attempt* to seduce an Officer or soldier from his duty.

The mere *attempt* is sufficient to complete the offence. *Even though the attempt fails, the person who makes the attempt is guilty under Section 131 Indian Penal Code (He then read Section 131.)

You will remember that a bare agreement to commit an offence is sufficient even though the agreement is only momentary—even for one minute and even though *no* action *whatever* is ever taken in pursuance of the agreement—still anyone who agreed for *one moment to commit* that offence is guilty of criminal conspiracy (He read Section 120 A.)

You will remember also that the ultimate object of the conspiracy is *immaterial* and *irrelevant*. It is immaterial that the committing of an offence was merely incidental to the *ultimate object* of the conspiracy. This is a point of *law on* which you must *accept* the ruling of the learned Judge. The Court will lay it down for you that it is *immaterial* that the accused may have acted from religious motives.

Religion is revealed. One man interprets the Holy Scriptures in one way, others equally devout and earnest hold directly contrary views. Verses and even parts of verses may be detached from their context or may be taken in conjunction with other verses in *different* ways by one party or the other, so that there exist acute differences of belief amongst the followers of practically every religion in the world, giving rise to numerous sects within one and the same religion, a fact, of which you as men of the world are well aware.

TRIAL OF ALI BROTHERS AND OTHERS.

You have Protestants and Roman Catholic Christians, Sunni and Shiah Mahomedans, Pirai and Punjabi Khojas, just as you have Mahomedans who believe in the maintenance of the Temporal Power of the Sultan of Turkey as the Caliph of Islam and those who hold contrary views. The accused interpret certain verses of the Holy Koran as forbidding one Mahomedan killing another even in a state of War. Many other Mahomedans who are equally devout recognise War as an exception to these texts. Throughout the late War Mahomedans enlisted knowing they would probably have to fight against Mahomedans. In fact every Mahomedan in the Army, including those who enlisted before or after the war, were liable at any time to have to fight against Mahomedans on the Frontier. Had the texts to which the accused refer, been universally interpreted as the accused interpret them, they would have come into prominence long ago and must have seriously affected recruiting. The 6th of the 10 Commandments of the Christians and the Jews is even wider than these verses quoted by the accused for it prohibits killing generally without any limitation regarding one's co-religionists; but killing in War, in self defence or as punishment for crime is generally accepted as exception to this Commandment. Mr. Mahomed Ali admitted this last exception as applying even to the verses he quotes, admitting that a Muslim King ought to kill a Muslim caught in adultery. Apparently however, he denies that War is an exception to what these verses enjoin.

It is not possible for this or any Court on earth to decide which sect is right. It is not possible for you or any Court to decide whether the beliefs held by the accused are correct or those held by others. The accused are at liberty to hold any belief they like, but they cannot commit crimes in the name of religion. Human sacrifices to the Goddess Kali—to which the Court referred—are none the less criminal because they are acts done in the bona fide belief that the killer believes his religion requires him to take human life as a sacrifice. In order to be consistent, when asked yesterday by

PUBLIC PROSECUTOR'S ADDRESS TO THE JURY.

the Court, accused 1 had to admit that according to him under the Proclamation of Her Majesty Queen Victoria, King Edward VII and King George V human sacrifice should be permitted. If his children were taken and actually sacrificed to the goddess Kali, would Mr. Mahomed Ali for one moment consider the murderer should go unpunished ?

Take another instance—a hypothetical instance; If the principle upon which the accused say they are acting is true, it must provide the same logical conclusion in every case. Are forcible conversions to Islam permissible? The accused *may* say that *they* believe forcible conversion is contrary to the Law of Islam. That is beside the point. The fanatics who forcibly convert Hindus to Islam, *they* believe that they are doing God service and the accused say that every man is free to do what *he* believes his religion requires. The religious beliefs of the victims are immaterial. The practical result of this doctrine of the Accused in this instance would be to deny even liberty of belief to the victims. *The principle for which the accused are contending means* that, if a man *believes* his religion requires it, he may commit murder dacoity, robbery, arson, rape and every other offence known to law with impunity.

Are you prepared to hold that if a man murders you, or even forcibly converts you to Islam, he should *not* be punished if he believes that his religion requires him to murder you or forcibly compel you to accept the religion of Islam? Such a proposition would necessarily put an end to any safety of life, property and even of the religion of each one of us.

If some non-Muslims demolished a Mosque honestly *believing* that their religion required it, would the accused say that those non-Muslims should go unpunished? Never.

TRIAL OF ALI BROTHERS AND OTHERS.

In short, you may hold any religious beliefs you like, as laid down in the Proclamations of Her Majesty Queen Victoria, King Edward VII and King George V, to which accused No. 1 has referred, but you *cannot* commit crimes because *you* think your religion requires you to commit crimes.

It is of the utmost importance that you should grasp this fully and bear it in mind throughout the case.

There is absolute freedom of faith, but no license or permit to commit crimes in the name of religion.

The Explanation to Section 120-A of the Indian Penal Code covers this point. The learned Judge will direct you on the law and you must accept the law as laid down by him and in accordance with your oath return a *true* verdict according to the *evidence*. (He then read the first two charges)—Both these charges charge the accused with *agreeing* to seduce Officers and soldiers. The 1st charges them with *mere* agreement, *nothing* more—the second charges their agreement being *followed* by an actual *attempt* to seduce Officers.

The Court asked one of the Indian Officers whether he thought Mahomedan Officers were likely to be seduced by those leaflets and he said it was unlikely that they would be affected; but whether or not the attempt is likely to be successful is quite immaterial.

Now the *duty* from which it is alleged the accused agreed to attempt to seduce the Officers and soldiers is two fold—*both* are mentioned in the Resolutions.

Firstly the accused attempted to seduce them from remaining in the Army. Colonel Gwyer has told you no Indian Officer can resign his commission without the permission of the Commander-in-Chief. No soldier can leave until he has completed the period

PUBLIC PROSECUTOR'S ADDRESS TO THE JURY.

of service for which he signed on and even then not if his unit is 10 per cent. below strength, *or* if war is existing or imminent.

The War ended officially on 1st September 1921. When the Resolutions were passed and all other acts done *no* soldier in the Army could resign.

(He then read exhibits. 79 clause 14 para 1 and exhibit 80.) Secondly. The accused attempted to seduce Officers and men from doing *recruiting* duty.

It is impossible to keep the Army up to strength, *unless* officers and men induce others to enlist.

These are the 2 points namely that the Accused have agreed and attempted to seduce Officers and soldiers from their duty.

Now for the evidence 1.—There was no cross-examination. The evidence is unchallenged, and largely admitted. Accused No. 1 has challenged one immaterial item in the evidence of Fateh Bahadur Ex. No. 45, the Head Constable who saw Accused Nos. 1, 3 and 7 on the night of the 9th July when this resolution was passed return to the Kanyashala at 1-30 a. m. from the Conference. No. 1 has said this is a wanton lie, because subordinate Police *must* put in *some* lie even in the truest case. The Police have *not* lied. Zamanshah has told us that on the 9th the Conference proceedings did not finish until after 1 a. m. and he is corroborated from an entirely independent source namely the "New Times" Reporter. (See Ex. Nos. 42 the Account of the proceedings of the night of the 9th July. "The *sitting* came to an end at about 1 a. m.")

It takes some few minutes for a crowd of 2,000 to 3,000 to leave the Pandal. The C. I. D. Head Constable who saw the 3 Accused *reach* the Kanyashala at about 1-30 a. m. was therefore speaking the truth and Mr. Mahomed Ali was *wrong*.

TRIAL OF ALI BROTHERS AND OTHERS.

On other point Accused No. 1 challenged and also *failed* in it. *He* thought that the evidence of the Inspector Abdul Karim of the Madras C. I. D. given in the Lower Court was inconsistent with that of the Waltair Jailor given here. I tendered the Inspector for cross-examination and pointed out that there was no discrepancy whatever. At the request of No. 1 the learned Judge read through the evidence of the Inspector and *agreed* that there was no discrepancy whatever and the point was abandoned.

The evidence before you is therefore unshaken in any way—on the *allegation* of Accused No. 1 on the *one* small point on which he has attacked the evidence, is proved to be *wrong* and the prosecution evidence correct.

Pardon me if I now remind you of the provisions of Section 10 Evidence Act.

You will remember that, in order to *prove* the existence of a conspiracy or to *prove* that *any one* of the present accused was a party to that conspiracy, you may take into consideration any act done by any party to the conspiracy in reference to the common intention of the conspiracy at any time after such common intent was first entertained by any party to the conspiracy even though the doer of that act may be a *complete* stranger to all of the accused and is acting entirely without the *knowledge* of *any* of the accused and even though such act was done *before* the accused joined the conspiracy *or after* he left it.

I would again remind you that conspiracy is a matter of *presumption*. No. C. I. D. Officer can *see* the conspirators conferring. They cannot get into the Meetings of the "Subjects Committees" where the Resolutions are drawn up. (He then quoted 9 S. L. R. 223 where conspiracy was held proved though one man did nothing more than accompany his co-conspirator and never even uttered a single word).

PUBLIC PROSECUTOR'S ADDRESS TO THE JURY.

Now first as to the existence of a conspiracy to attempt to seduce troops from their duty. Leaving aside at present the question whether the accused or any of them were parties to such an agreement, what are the facts from which an agreement to commit this offence is to be presumed ?

1. The Resolutions in Town Hall Calcutta were passed on 29th February 1920 and Shaukat Ali was there. He says he has never missed a Khilafat Conference and Surendra Nath Sen saw him in Calcutta.

2. Some Resolutions were also passed at Assam Khilafat Conference on 6th March 1920.

3. Mr. Shaukat Ali delivered a speech on 6th March 1920 (He read passages to show similarity).

4. The Fatwa was issued after the 6th September 1920 because it quotes a Resolution of that date. (He then read the Army passage in the Fatwa and the Resolution of 6th September 1920.) The Fatwa bears the names of accused Nos. 2 and 5.

5. The Jamat-ul-Ulema Proceedings in November 1920. (He then read second Resolution, on which accused No. 5 spoke,) and again.

6. The reprinted Fatwa in February 1921. In this there is a further exhortation to Mussalmans not to serve in the army, It bears the names of accused Nos. 2, 4, and 5.

7. The Bombay Khilafat Committee received 240 copies of Fatwa for distribution in February 1921.

8. On 14th February 1921 Bombay Khilafat Committee ordered five thousand copies of Fatwa and proceedings of Jamat-ul-Ulema to be printed—but for some reason, probably because the time was not ripe, did not send the order to the Press. Notice the wording of the foreword written by Mr. Khatri a joint Secretary of the All India Khilafat Committee.

TRIAL OF ALI BROTHERS AND OTHERS.

Though Mr. Abdul Ghani says he gave these papers for printing on his own authority and without the knowledge of the accused, remember he is really an employee of the accused party and you should think twice before accepting extenuating circumstances which from loyalty to them he may urge on their behalf. Further he is obviously a co-conspirator with them and *they* are all therefore liable for *his* acts, even though they may have known nothing whatever of them at the time.

9. In February, March, April, May 1921 the Khilafat Committee distributed the Fatwa *free*, though they charged for most of their literature.

10. On 17th June 1921 Shaukat Ali at Poona spoke of "Discharged soldiers fund".

11. On 19th June 1921 Gokak Resolution was passed.

12. On 9th July 1921 Karachi Resolution was passed and violent speeches thereon delivered. (He then read passages emphasising the attempt and intention to seduce).

13. On 11th July 1921 Shaukat Ali at Naushahro Feroz delivered a speech wherein he said "It is haram to serve in the army".

14. On 21st July 1921, two thousand copies of the reprinted Fatwa proceedings of the Jamat-ul-Ulema and foreword were received by the All India Khilafat Committee and "given for distribution".

15. In end of July and August Leaflets were sent to troops. (He then read para 5 and verses) and said. These leaflets are relevant and important evidence according to the Rule laid down in Section 10 Evidence Act when considering the question we are now dealing with, namely the existence of a conspiracy.

From all these acts, all this long course of consistent conduct only two conclusions are possible. Either the accused have been

PUBLIC PROSECUTOR'S ADDRESS TO THE JURY.

fooling their ignorant co-religionists, fervently preaching to them the doctrine that it is "haram to serve in the army" and repeatedly urging them to *act* on this religious commandment, impressing as they did in the resolution and speeches at Karachi the absolute duty—the absolute *necessity* for every Mussalman to bring these texts *home* to the Mussalmans in the army, fooling their ignorant brethern because they never meant a word what they said, or—as they have certainly appeared in Court—they are sincere men, they sincerely mean what they say and they *want* their hearers to do what they enjoin, they want their hearers to carry this message to every Mussalman in the army and why? First in order that every Musalman may leave the army himself and secondly in order that every Mussalman may cease to induce others to join; that is, if the accused are sincere, their *aim* is to attempt to seduce Mahomedan soldiers from their duty. I give the accused credit for sincerity and I am sure they will maintain that they *were* sincere in what they did and were *not* fooling their ignorant brethern. Now do you think in Calcutta, Assam, Gokak and Karachi that all these acts of the accused which I have placed before you, all these Khilafat Conference Resolutions in Calcutta, Assam, Gokak and Karachi, and all these speeches at public meetings all over the country.—The Fatwa, The Second Resolution and speeches thereon in the Jamait-ul-Ulema, the reprinting in Bombay and distribution of the Fatwa and proceedings of the Jamait-ul-Ulema with its emphatic foreword, can you for one mement believe that all of these uttered and published to emphasise the *one* single scheme,—were not the acts of men who were acting in agreement? All preach the same idea "it is haram for a Mussalman to remain in the Army", In the face of all these proved acts, all pointing clearly to the same conclusion, you cannot but hold that the men who made these speeches, published these fatwas etc., gave out and supported these Resolutions did *agree* and that they agreed to attempt to seduce troops from their duty. Conspiracy is nearly always a matter of presumption. Remember the case in 9 S. L. R. at page 223. There a man who did

TRIAL OF ALI BROTHERS & OTHERS.

nothing was held by his mere presence to be a conspirator with the chief accused—here each and every accused has done several acts which associate him clearly with this movement and show that he agreed with others including the present accused to attempt to seduce Mahomedan soldiers. Remember that acts done by members of the conspiracy other than the accused are relevant as proving the existence of an agreement to commit an offence—and as proving that the accused or any of them were parties to that agreement. The prosecution need *not* prove any meeting at all. Here we have proved meeting on a common platform in Karachi in the common cause. I put it to you that a widespread agreement to attempt to seduce Mahomedan soldiers from their duty *must* be presumed from the proved facts of this case.

We will now take the case of each accused separately to see whether he was a party to this Agreement.

Accused 1. He was present at Gokak and Karachi Resolutions. He must have been present at Subjects Committee, being a member of The All India Khilafat Committee and President of the Conference here. See his statement to Lower Court and to this Court.

Accused 2. His name appears on Fatwa—1st and 2nd Edition and he proposed the Karachi Resolution—See his speech and read passages. See his statement to Lower Court and to this Court.

Accused 3. He *seconded* Gokak and Karachi Resolutions. He is Honorary Secretary of the All India Khilafat Conference Bombay and must share responsibility for their acts. As Secretary he must have attended the Subjects Committee which included all members of the All India Khilafat Committee.—See his speech here. See his statement to Lower Court and to this Court.

Accused 4. It was not necessary to burden the record of the Court and take up time by proving the Police Report of his speech. It was not taken down in shorthand and you have the New Times

PUBLIC PROSECUTOR'S ADDRESS TO THE JURY.

Reporter's short report of it. I will read this. This Accused translated the Karachi Resolution into Sindhi and spoke in its support. It was doubtless from No. 4's translation into Sindhi that the Sindhi Reporter of the New Times got the words "it is haram to *serve* in the Army", because, as Mr. Zamanshah says, No. 4 translated "remain in the Army" as "*Foj men Nokari Karna Haram Ahai*". The words I have quoted appear in the New Times of the 11th July but do not appear in the later so called "authentic" copy supplied by Mr. Mahomed Khan the local Khilafat Secretary, which was published in the issue of 18th July. Mr. Mahomed Khan doubtless intentionally left these words out as being too dangerous to publish. That such words were in the Resolution is proved not only by the two shorthand writers but by the copy of the Gokak Resolution found on and admitted by No. 1 in his speech. No. 3 said that the Resolution here was the *same* as at Gokak. Accused 4 also signed 2nd Edition of Fatwa and tells us he had arranged for its republication in Hyderabad. See his statements in both Courts.

Accused No. 5. His Name is on both editions of Fatwa—also on 2nd Resolution of the Jamiat-ul-Uloma as having supported it—He spoke strongly at Karachi. Refer to his his speech and statement to the Magistrate and this Court.

I will next take the case of Accused No. 7.

His case is practically on the same footing as that of the other Mohammedan Accused. I propose to take the case of the Hindu Accused No. 6 last, if I may. Now Accused No. 7 arrived on 7th July 1921 by Quetta Mail with Nos. 1 and 6. He put up at Kanyashala with Nos. 1 and 3.

Close Association here as in Bombay Khilafat Office. As Secretary of All India Khilafat Committee he was a member of the Subjects Committee. He was seen *going in* at the morning meeting; was heard speaking at it by three witnesses and was heard speaking at evening meeting by Mahomed Usman Ghani. He states he was and is in *full* sympathy with the Resolution and only regrets not having spoken on it.

TRIAL OF ALI BROTHERS & OTHERS.

This is borne out by the consistently prominent part No. 7 has taken in this movement.

1. Deputy Superintendent Surendra Nath Sen proves he was in Calcutta at the time of the Khilafat Conference there in February 1920. No. 7 says he has never missed a Khilafat Conference. Similar Resolutions were passed there on 29th February 1920. (He then read the Resolutions.)
2. On 6th March 1920 No. 7 was President at the Assam Khilafat Conference and delivered a speech in support of the same idea and had the same Resolutions as at Calcutta put forward and passed. (He then read the speech of Showkat Ali.)
3. On 17th June 1921 he spoke at Poona. (He read his speech.)
4. On 9th July 1921 here at Karachi as noted above, he stood up on dais.
5. On 11th July 1921 he spoke at Naushahro Feroze and said "It is haram to serve in the Army"

As Honorary Secretary of Bombay All India Khilafat Committee he is responsible jointly for what was done there—even for the acts of Mr. Abdul Ghani, Mr. Khatri and others done without his knowledge for they also clearly agreed to the same course as No. 7 and their acts done in pursuance of this Agreement are relevant evidence against No. 7 and all others who were parties to this Agreement; all who agreed to join this attempt made to seduce troops from their duty. There is no possibility as to No. 7 not being in full *agreement* with the others. That is the question. Conspiracy is a long and frightening word—discard it altogether from your minds. Use the simple English equivalent "*agreement*."

PUBLIC PROSECUTOR'S ADDRESS TO THE JURY.

Was not No. 7 acting *in agreement* with other persons in attempting to seduce Mahomedan soldiers from their duty?

We will now take the case of *Accused No. 6*.

He says he did not know the contents of Resolution—until after his arrest. There can be no possible doubt whatever but that statement is *untrue*. This Resolution was published by the New Times in a special edition brought out on Sunday the 10th, the last day of the Conference (vide Tekchand Daily Gazette Reporter, Ex. No. 36 who says he cribbed his report for the Daily Gazette from this Sunday Bulletin).

Accused No. 6, as his speech would show, is a keen political worker—shall we say an agitator—who had heartily espoused the Khilafat cause.

Do you think No. 6 did not read this account of Saturday's proceedings on Sunday. On Monday the 11th it appeared in the New Times and in the Daily Gazette—papers of different political points of view. Do you believe that this most important Resolution was published in *none* of the newspapers which this keen political worker read? It is utterly *impossible*. This Resolution was emphasised by the President of the Conference as being the *essence* of the whole conference. Accused No. 6 in the opening words of his speech said of this speech that this Resolution was "one of the *greatest* importance—it is of the greatest importance spiritually and politically." He delivered a long and vigorous speech in support of it. Do you believe for one moment that he was not sufficiently vain to look at the reports of that speech and not sufficiently interested in this 'most important Resolution' to read it in the newspapers. Without a shadow of a doubt he must have read the report of this Resolution and of the speeches on it and he is *not* speaking the truth when he says he saw the Resolution for the *first* time after his arrest in Karachi Jail.

TRIAL OF ALI BROTHERS & OTHERS.

Now what are the proved facts against him.

1. He arrived on 7th July 1921 by Quetta Mail with Nos. 1 and 7.

2. He was seen by 2 Head Constables going to the Subjects Committee, where it was decided to put this Resolution before the Conference—see Ex. No. 17. It was *not* a mere repetition of Ex. 7 A the Gokak Resolution Ex. No. 7 A—it contains more. Compare with 17. The Resolution *must* therefore have been discussed at the Subjects Committee and accused No. 6 must have known its contents then.

3. He spoke in support of the Resolution and emphatically urged its unanimous acceptance. He dissented from *no* part of it. He addressed himself more to the *ultimate* object of the conspiracy—the attainment of an Indian Republic—rather than the immediate act, the seducing of Officers and men of the Army from their duty. But although Accused 6 carefully avoided any mention of seducing troops *or* of civil disobedience, yet his speech bears internal evidence that he *knew* the contents of the Resolution to which he was speaking.

4. Although he *must* have seen reports of the Resolution he never at any time disassociated himself from it in *any* way, at any time and even *now* when he pretends that he was ignorant of its terms at the time when he urged its acceptance “as” a *most important* Resolution of the greatest importance both from the religious and the political point of view,” yet even *now* he does not express any disagreement with what it says—look at his last answer to the Court. This resolution was not a new thing. It was as old as February 1920 repeated in March 1920, it was the *only* resolution at Gokak, which No. 1 went to propose and No. 3 from Amritsar went to second and is similar to what this Accused’s co-Accused have publically preached for nearly 18 months. The Prosecution have put in a full detailed report with the original short hand notes, so that Accused may get any crumbs of comfort that he can

PUBLIC PROSECUTOR'S ADDRESS TO THE JURY.

from it. His words, on which the Prosecution rely, were, however, reported in the New Times and proved before Accused was Committed to the Sessions Court.

The New Times Report shows that Accused emphasised that this Report was of *the greatest* importance both from the political and the religious stand-point and that Accused urged the audience to pass in unanimously.

Can you gentlemen believe that a man of the education and ability of Accused No. 6 would be foolish as to get up and emphatically state that a Resolution was of the *very greatest* importance and as to strongly urge a large public audience to accept and pass it unanimously when he did not even know *what* the Resolution was? Yet, that is what Accused No. 6 asks of you.

That gentlemen is an outline of the part played by each of these Accused.

I first put before you reasons for holding that a widespread agreement to attempt to seduce troops from their duty existed at some time or times between 1st February 1920 and 30th September 1921. I have now shown you from the evidence that each one of the accused was a party to that conspiracy. There can be no question of any of the six Mohanamedan Accused. In their very statements in Court they make their position clear. Regarding the one Hindu Accused I submit the Prosecution have established his complicity, that he too was a party to this agreement. Are you prepared to accept his uncorroborated explanation which is in itself, a highly improbable one?

Are you going to believe that this highly educated and intellectual gentleman impressed the very great importance of the 6th Resolution upon his audience at Karachi and called upon them to pass it unanimously in a light hearted manner, ignorant and utterly callous of the contents of the Resolution? He was either crimi-

TRIAL OF ALI BROTHERS & OTHERS.

nally foolish or he is a criminal trying to avoid the punishment for his crime." His education and obvious intelligence lead irresistibly to the latter conclusion.

Apply section 10 of the Evidence Act to this case. Bear in mind its illustration and the further illustration I gave you of the case reported in 9 S. L. R. These are 2 simple questions for you on this part of the case.

1. Do all the activities which the prosecution have proved, show there was an *agreement* between any two or more persons to attempt to seduce Mahomedan officers or soldiers from the army? That is surely not difficult to answer. The other question will be regarding each accused individually "Was each accused a party to that agreement at any time between 1st February 1920 and 30th September 1921?"

(The Court suggested to the Public Prosecutor "Is it not possible that the accused were merely trying to force the hands of Government and did not mean business?" Public Prosecutor replied "No. The conduct of the accused went much too far for that. Nor was it likely that Government would alter its policy on account of mere empty talk".

The Court "Government has often done so. However we will rise now".

The Court then rose for the recess. On resuming the Public Prosecutor continued regarding the suggestion of the Court that "perhaps the accused did not mean business but only to frighten Government into giving way. Theoretically this is possible, but in the light of the proved facts of this case it is *impossible* because :—

1. The conduct of the accused throughout this prolonged campaign has been that of men who were in earnest.

2. The answers of the accused in Court are *not* that they were bluffing Government, but that they *were* in earnest.

PUBLIC PROSECUTOR'S ADDRESS TO THE JURY.

Mr. Mahomed Ali when asked if he hoped to reach the soldiers said he hoped to have *some* effect—he did not say that his intention was to bluff Government.

Neither accused nor their followers are likely to say they were merely bluffing—they were not in earnest. They have never yet suggested this. God only knows what is in the heart of man—we can only conclude from the proved facts and admissions what the intent was.

If a man, who has proclaimed his hatred and contempt for you, fires a bullet through your hat and, when run in, says I admit I hate and despise you but I only fired at you to see you jump, would you believe him? It would be as impossible as to believe that the accused were merely bluffing here—a thing they have never even suggested.

With regard to *2nd charge*. You will remember this is the only charge on which you are the sole judges of fact. Please weigh the facts carefully and give them the fullest consideration on this charge in particular. The charge deals with the *completed attempt*, made when the leaflets were sent to the troops. There are 3 questions which arise under this charge. As to the first whether any attempt has been made to seduce any Mahomedan Officer from his duty, you can on the evidence before you have no doubt whatever. The sending of the leaflets has been deposed to by three Indian Officers who actually found them in their Regimental post addressed to Mahomedan Officers in their Regiments. Col. Gwyer proves that he has also received several such leaflets from other Regiments in the Western Command to whom they were sent. I will refer you to the evidence of these 4 witnesses (Reads passages). There can therefore be no doubt as to the attempt having been made. The second question is whether the attempt was made by some person or persons, who were party to an Agreement to attempt to seduce Mahomedan Officers and made this attempt in pursuance of that

TRIAL OF ALI BROTHERS & OTHERS.

Agreement. If the sender of these leaflets was a party to an Agreement to attempt to seduce Mahomedan Officers in the Army, it is obvious that when he sent these leaflets he did so in pursuance of that Agreement. Now it is practically certain that the preparation, printing and distribution of all these leaflets, posted from different places, was the work of more than one person, that is to say it was the work of 2 or more persons who *agreed* to attempt to seduce Mahomedan Officers. After all the preaching, the *emphasis* laid on this doctrine, the *urging* of all Mussalmans to turn precept into practice and *act* upon "these religious commandments", the wonder would have been if no Mussalman made any attempt to seduce Mahomedan troops from their duty. In the fruitful soil prepared in the minds of Mussalmans all over the country by all this preaching and propaganda any one who resolved to 'act', as he was enjoined to do, would have no difficulty whatever in finding others ready to help and in persuading them to help. The second question should not therefore give you any difficulty. The third question for you to answer under this charge is whether the Accused and if so which of them were at any time between 1st February 1920 and 30th September 1921, parties to *this* Agreement. That is to say whether the sender of these leaflets was acting *in* agreement with the accused or any of them. It is not at all necessary that the accused should ever have known of even the *existence* of the sender, much less of his act. The Prosecution have *only* to show that the sender was a member of the conspiracy, that is, that he was working in agreement with the Accused. Even meeting is unnecessary (9 S. L. R. 223). Remember the illustration to Section 10 Evidence Act. The intent of the sender of those leaflets *was* to attempt to seduce officers. He was *in agreement* with the Accused—whether or not Accused knew it.

The Fatwa was written and published with an object. The Jamait-ul-Ulema's 2nd Resolution and Fatwa were republished with the *same* object. Resolutions at Gokak and here also with the same object.

PUBLIC PROSECUTOR'S ADDRESS TO THE JURY.

At meeting after meeting these *men* have preached this doctrine and have urged *action*. The 2nd Fatwa urges *action*. The foreword of the All India Khilafat Committee reprinted by the All India Khilafat Committee *urges action*.

The Resolution of the 9th July emphasises the duty of all Mussalmans and of the Ulema in particular to *bring home* these religious commandments to the Mussalmans *in* the Army. These leaflets were bringing those commandments home. They were doing what Accused proclaimed to all in India, *should* be done. These leaflets *began* to be sent in the last week of July—can you not presume that their sender *agreed* to what the Accused preached and intended—though he may never have seen or spoken to the Accused? The message sent broad cast by Accused and other workers in this movement obviously had reached and won over the sender of those leaflets, if he was not *already* in agreement with them.

The whole passage in the Fatwa laying it down that it is "Haram to serve in the Army" has been reprinted in this short leaflet of less than one page. This is the *only* subject discussed in the Fatwa, the *whole* passage regarding which is reprinted in the leaflet. The leaflet merely gives the headings of other subjects the Fatwa quotes a verse from the Holy Koran and a "Hadis" in support of its contention that it is "Haram" to serve in the Army—both the verse and the Hadis are quoted both in Arabic and Urdu in the Fatwa and both the verse and the Hadis have been repeated in full in the leaflet, in Arabic as well as in Urdu.

The accused now allege—after the prosecution case has been closed—that there are two mistakes in the verse as printed in the leaflet. The language of this Court is English and the leaflet is in Vernacular. A translation of it was made by K. B. Mahmud Shah, a Mahomedan gentleman of standing and an expert linguist. He was examined both before the Committing Magistrate, in whose

TRIAL OF ALI BROTHERS AND OTHERS.

Court both the leaflet and his translation of it were filed as Exhibits. You have also heard him here as a witness. Now the translation by K. B. Mahmud Shah into English of this verse as printed in the leaflet, tallies exactly with this Court's translation of the verse as given in the Fatwa. These two mistakes in the verses in the leaflet (which the accused say show that the leaflet must have been written by a barber for two pice and not by them) do not appear at all on the record of this case in English, which, as I have said, is the language of this Court. From the English translation it appears that the verse in the leaflet is word for word the same as the verse in the Fatwa, the correctness of which is admitted. The accused might have pointed out the mistakes, which they say appear in the verse in the leaflet, when several copies of the leaflet were produced in the Committing Magistrate's Court a month ago. They made lengthy statements to the Committing Magistrate as the Court record shows. For the past month these copies of the leaflet have been on the record available for inspection or for copies being taken. Yet even when K. B. Mahmud Shah, who translated the leaflet, was produced as a witness before you here two days ago no hint whatever was given, there was not the *slightest* suggestion of the allegation which the accused now make—after the prosecution case is closed—to the effect that there are two mistakes in the Vernacular verse as quoted in the leaflet. Had this been suggested before K. B. Mahmud Shah returned to Mirpur Khas, or at any time before the prosecution case closed, it would have been possible for us to have had the point cleared up in evidence on the record so that you might see whether there is any substance in this allegation, which has been raised for the *first* time after the evidence was closed in this Court. You have in evidence the translations of the verse as given in the Fatwa and as given in the leaflet and from these translations, which have not been challenged in any way, it certainly appears that the verse in the leaflet has been taken word for word from Fatwa. Even if however, a mistake has crept in somehow into the leaflet, still it is absolutely clear from a com-

PUBLIC PROSECUTOR'S ADDRESS TO THE JURY.

parison of the leaflet and the Fatwa that the one has been copied from the other with the intention of emphasising and bringing into prominence the passage in the Fatwa regarding service in the Army—with the intention of putting that point in a nut-shell clearly before the troops. Even if there is a mistake in the verse in the leaflet its meaning is clear—as the translation shows. Any Mohammedan Soldier therefore, who read the leaflet could not fail to understand what the writer of the leaflet wanted him to *do* or that the verse quoted in the leaflet was quoted to support the doctrine that it was 'Haram to serve in the Army. The alleged mistakes are therefore of no great weight when considering whether the person or persons, who got these leaflets printed and distributed, were acting in agreement with the Accused. The whole evidence in the case, which you are entitled by Section 10 of the Evidence Act to consider in this connection, and in particular a comparison of the leaflet with the Fatwa, raise an exceedingly strong presumption that the person who sent these leaflets to the troops *was*—whether the Accused knew it or not acting in agreement with them, was a party to the same conspiracy.

Go through Fatwa, compare it with the leaflet. No doubt—the latter is obviously a summary of the Fatwa, drawn up to carry out the purpose put forward in the 6th Resolution on 9th July 1921 here.

The sender of the leaflets is not before the Court but that is *not* necessary. The only indication of origin that we have are post marks of Allahabad and Cawnpore where the covers appear to have been posted. Mr. Mahomed Ali said in his statement to the Lower Court that he was pleased to see that at long last the Jamait-ul-Ulema had sent this leaflet to the troops (see his statement) but at the suggestion of his legal Adviser Mr. Mozumali, whom you have seen assisting the Accused in Court, he withdrew that statement, as noted by the Committing Magistrate. However, you will note that the leaflet states that the Fatwa itself can be

TRIAL OF ALI BROTHERS & OTHERS.

obtained from the Jamait-ul-Ulema Hind, that is from the body to which Accused 2, 4 and 5 belong, who brought out the Fatwa and whose proceedings in November 1920 show their strong views on this subject. The leaflet is practically an *advertisement* of the Fatwa, whose doctrine on the point of service in the Army has been preached with such fervour by the Accused for the last 18 months. From all this it is clear that the sender of these leaflets, whoever he was, was *in agreement* with the Accused. Surley this is a fair presumption, an irresistible presumption.

Now adopting the principle laid down in S. 10 of the Evidence Act, bearing in mind the words I read you before but will again repeat from 9 S. L. R., I *ask* were not *all* the Accused in agreement and was not this leaflet sent by some one who was in agreement with them? He then read 9 S. L. R. at page 224.

“Direct evidence of conspiracy is hardly ever adduced but “unlawful conspiracy is to be inferred from *the conduct* of the parties “Chandarvarkar J. in Emperor v/s Annapa said that “a conspiracy may be proved by the evidence of surrounding circumstances and the conduct of the Accused both before and after the alleged commission of the crime” and cited the case of Reg. v/s Esdaille that “there may be conspiracy without overt acts”. So also in Barindra Kumar Ghose v/s Emperor Jenkins C. J. said “though to establish a charge of conspiracy there must be agreement, there need not be proof of direct meeting or combination nor need the parties be brought into each other’s presence; the agreement may be inferred from circumstances raising a presumption of a common concerted plan to carry out the unlawful design”.

Note particularly the words of Sir Lawrence Jenkins quoted in that case which I will again repeat “Though to establish a charge of conspiracy there must be agreement, there need not be proof of direct meeting or combination nor need the parties be

PUBLIC PROSECUTOR'S ADDRESS TO THE JURY.

brought into each other's presence; the agreement may be *inferred from circumstances*" and apply that principle to this case. From all the circumstances proved in this case is it not clear that the sender of these leaflets was a party to an agreement to seduce Mahomedan officers and that *each* of the accused was also a party to that agreement, in pursuance of which these leaflets were sent?

With regard to the *third charge* I will first read Section 505 Indian Penal Code. There can be no doubt but that Mr. Mahomed Ali used the words attributed to him in this charge as these words appear not only in the notes of both the Urdu shorthand writers but also in Mr. Mahomed Ali's own hand writing in the copy of the Gokak resolution found in his kit when he was arrested. Mr. Shan-ker the Jailor of Waltair has proved that this copy was found in Mr. Mahomed Ali's kit and Mr. Mahomed Ali admits that this copy is in his hand writing and this is proved by the Government Expert who says the Gokak Resolution is in the same hand writing as the letters which Mr. Damri the Karachi Jailor, has proved he saw Mr. Mahomed Ali write.

Accused No. 3 in his speech here said that the resolution here was the same as that proposed at Gokak. Accused No. 3's actual words were "This Resolution" (etc., reading from beginning of accused No. 3's speech). There can be no doubt therefore that Mr. Mahomed Ali used the words he is charged with having used. The next question for your consideration is then whether in making this statement Mr. Mahomed Ali *intended* to cause Mahomedan officers or soldiers to fail in their duty. The intent of Mr. Mahomed Ali is shown clearly by the very words of the resolution "It is the *duty of all Musalmans to see* that these commandments are *brought home* to the Musalmans in the Army". They can only be *brought home* by approaching the troops, by this message reaching the army—there *could* only be one object in *bringing* this *home* to the Musalmans in the Army, namely to cause them to leave it at once, to cause them not to bring in recruits that is to say to cause them to

TRIAL OF ALI BROTHERS & OTHERS.

fail in their duty in the two respects re-which Colonel Gwyer gave evidence. Even therefore if the statement made by Mr. Mahomed Ali were *true*, (which is not admitted) still it would *not* be protected by the exception to the Section 505 because it was made with *intent* to cause troops to fail in their duty. In judging of the intent of Mr. Mahomed Ali you should also bear in mind the fact that he proposed the Resolution, containing the words mentioned in this charge, previously at Gokak. His statement here in Court also leaves no doubt as to his *intent* that he did *intend* that his statement should *cause* Mahomedan Officers and Soldiers to fail in their duty. He *meant* every word he said.

I come now to the *4th charge*. This is against accused Nos. 2 to 7 under *Section 109 Indian Penal Code* and alleges that they conspired with accused No. 1 that he should commit the offence under *Section 505 Indian Penal Code*, which is the subject of the 3rd charge, and that accused No. 1 committed that Offence in pursuance of that conspiracy. You have ample evidence that all the accused agreed together that Mr. Mahomed Ali should publish that statement to all the people assembled in the Pandal and that they all intended by publishing that statement to cause Mahomedan Officers and soldiers to fail in their duty.

As when considering the 1st charge, here too the fact that the accused agreed to commit this offence is a matter to be presumed from the proved circumstances. Now Mr. Mahomed Ali said after concluding his Presidential Address that a Subjects Committee was to be formed to draw up the Resolutions. The members of that Committee must have agreed to this Resolution being put to the Meeting in this form. I have already reminded you that the words emphasising the duty of bringing this injunction home to the troops were not in the Resolution at Gokak, but were added here. This shows the Resolution was apparently discussed at the Subjects Committee and it could hardly fail to have been discussed there for both Mr. Mahomed Ali and accused No. 6 strongly emphasised

PUBLIC PROSECUTOR'S ADDRESS TO THE JURY.

the supreme importance of this Resolution in the Pandal. It is proved that accused Nos. 1, 3, 6 and 7 attended the Subjects Committee. I have already detailed the evidence on this point to you. These 4 must from their close association here at Karachi have known that this Resolution was to be proposed and they must have agreed to it. You remember that accused Nos 1, 6 and 7 arrived at Karachi together, accused Nos. 1, 3 and 7 put up together at the Kanyashala and all 4 took a prominent part in the Conference and as I have said, attended the Subjects Committee. These 4 at least then were in agreement with Mr. Mahomed Ali as regards the publication of the statement.

Accused No. 4 translated the Resolution into Sindhi, there can be no doubt therefore as to his Agreement. He also spoke strongly on it as the New Times Report shows. Accused Nos. 2, 3 and 5 also delivered very strong speeches in support of this point, accused No. 6 urged great importance of his Resolution and begged the audience to pass it unanimously. Accused No. 7 regrets he did not speak on it; boasts that he was in full sympathy with it and he left the evening after the Resolution was passed at Karachi and repeated the same sentiments at Naushahro Feroze. From all this surely you can only draw the one conclusion namely that *all* the accused agreed that this statement should be made and that Mr. Mahomed Ali made the public statement mentioned in the charge in pursuance of a conspiracy to which he and all the other accused were parties, that they *all agreed* that this statement should be published. Section 110 Indian Penal Code requires that the Prosecution also establish the intent of the accused who were parties to this conspiracy. But you will have no difficulty on that point for it is clear that all of the accused who agreed to this statement being made in this manner *intended*, by giving such wide publicity and emphasis to this statement, to *cause* Mahomedan Officers and Soldiers in the Army to *fail* in their duty. The *intent* of all the accused is clear. Their speeches, from which I have read passages, leave no room for *any* doubt as to what their intent was and the

TRIAL OF ALI BROTHERS AND OTHERS.

wording of the Resolution, the emphasis on the duty of bringing this message *home* to *all* Musulmans in the Army shows beyond doubt the meaning of those who agreed to this Resolution being placed before the Conference. If further evidence of intent were needed you are entitled to consider the evidence already discussed on the 1st charge which shows the conduct of the accused during the last 18 months, how throughout these months these men have at one time or another in one way or another tried to bring this message into prominence, have preached it from Assam to Poona, from Gokak to Karachi, have published it in successive Fatwas in Delhi and distributed it in Bombay with only one possible aim, namely that it should *have effect* and the only effect it can reasonably have is to cause Mahomedan Officers and Soldiers to fail in their duty. You must consider the case of each accused separately as to whether he *agreed* to this statement being made and as to whether he *intended* the statement to have the effect which the Prosecution allege.

The 5th charge is against Mahamed Ali under Section 117 Indian Penal Code namely that he *instigated* more than 10 persons to commit an offence under Section 505 and/or 131 Indian Penal Code when he called upon all the Mahomedans assembled in the Pandal and all Mahomedans who might read the resolution in the Press or hear it from others to bring home to the Mahomedans in the Army the message which is the subject of the 3rd charge. (Reads the words in the charge.) The words on which this charge is based do not appear in the Gokak resolution, but are to be found in the copy of the resolution given to the Editor of the "New Times" by Mr. Mahomed Khan, Secretary of the Khilafat Committee in Karachi as "authentic". There is no doubt therefore that these words were used here. They appear in the shorthand notes of both the Urdu Reporters. The Urdu words have not been challenged by the accused and may be taken as fully proved. The translation "these religious commandments" has been challenged. An exact literal translation of the Urdu words, whose translation Mr. Mahomed Ali

PUBLIC PROSECUTOR'S ADDRESS TO THE JURY.

challenges, would have been "the religious commandments about this," but the meaning is the same when you read the context in which the words were used. K. B. Mahmud Shah has accepted the translation of the Karachi Resolution as given in the Order of Government sanctioning this Prosecution. That Translation obviously conveys the true meaning of the Urdu words used.

The words were addressed to a very large number of Mahomedans and to more than 10 Ulema even as Mr. Zeinan Shah's evidence shows. These words clearly incited them to publish a statement which fell within Section 505 Indian Penal Code and by doing so *attempted* to induce soldiers to fail in their duty (Sec. 131). An incitement to either offence under Section 505 or 131 Indian Penal Code is sufficient for the substantive offence under Section 117 of abetting more than 10 persons to commit an offence—*any offence whatever*, but here clearly an offence under Section 505 and/or 131 Indian Penal Code.

The 6th charge is under Section 109 Indian Penal Code. This charge is similar to the 4th and alleges that Mr. Mahomed Ali committed the offence mentioned in the 5th charge in pursuance of a conspiracy to which the accused were parties. The proof of conspiracy here is the same exactly as on the fourth charge for there can be no doubt that any of the accused who agreed to the publication of the sentence of the resolution which is the subject of the third and fourth charges must also have agreed to the publication of the words which are the subject of this charge also, as these words occur in the next sentence to those words in the resolution.

He then referred to and explained 'circumstantial proof'. He also read from 7 S. L. R. Isarsing v/s Crown remarks on page 112.

In this case as in nearly every case of conspiracy, the evidence is largely circumstantial and you must draw your deductions from

TRIAL OF ALI BROTHERS & OTHERS.

the facts proved and placed before your facts which are surely ample to substantiate the charge which the prosecution brings that these accused did with others agree to attempt to seduce Mahomedan officers and soldiers from their duty, that *some one* in pursuance of that agreement actually made an attempt, by sending these leaflets and that the accused did agree together to commit also the minor offences under Sections 505 and 117 Indian Penal Code.

I will now read to you definition of "Proved" in evidence Act, and explain to you this and "benefit" of *reasonable bona fide* doubt.

To sum up, I will ask you to remember the points to be decided under each charge. I asked you to note these when I first opened the case.

The 2nd charge is the only one triable by you as a Jury. Under it you have three points to decide :

1. Has any attempt been made to seduce any Mohamedan Officer or soldiers in the Army from his duty ?
2. Was this attempt made by some person or persons who were party to *an agreement* to attempt to seduce Mohamedan Officers in the Army ?
3. Were any of the accused, and if so which of them at any time between 1st February 1920 and 30th September 1921 parties to *that* agreement to seduce Mohamedan Officers or soldiers?

On all the other charges you have only to give your opinions as Assessors. Under the 1st charge you will require to consider the two points I mentioned.

1. Whether there was *any* Agreement between *any* two or more persons to attempt to seduce Mohamedan troops. even though *no* party to that agreement even made *any* actual *attempt* to seduce a *single* Mohamedan Officer or soldier from his duty and the agreement never went beyond the stage of bare agreement ?

PUBLIC PROSECUTOR'S ADDRESS TO THE JURY.

2. If so, were any and if so which of the accused a party to that agreement at any time between 1st February 1920 and 30th September 1921?

On the other charges the points are clear from the wording of the charges which are in your hands.

For instance on the 3rd charge you must consider whether.

1. Mr. Mahomed Ali made the Statement mentioned in this charge.

2. Did he make that statement *intending* to cause Mahomedan Officers or Soldiers in the Army to fail in their duty?

Under the 4th charge you must consider:

1. Whether any, and if so *which* of the accused *agreed* with Mr. Mahomed Ali that he should make that statement?

2. Whether those of the Accused, who agreed with Mr. Mahomed Ali to make that statement, *intended* thereby to cause Mahomedan Officers or Soldiers to fail in their duty, and.

3 Whether Mr. Mahomed Ali made that statement *in pursuance of that agreement*.

Under the 5th charge you must consider:

1. Whether Mr. Mahomed Ali used words having the meaning of those attributed to him in this charge.

2. Whether in doing so he did in fact *instigate* more than 10 persons to commit an offence under Section 505 and/or 131 Indian Penal Code.

Under the last charge you must consider whether Mr. Mahomed Ali's instigation was in *pursuance of an agreement* to which any and if so *which* of the accused were parties.

TRIAL OF ALI BROTHERS & OTHERS.

I must thank you Gentlemen for the patient hearing you have given me and the intelligent interest you have taken throughout the case and in conclusion I would remind you of the oath you have taken that you "will well and truly try the case submitted to you and return a true verdict according to the evidence." I have taken you though a good deal of the evidence. It is now fresh in your minds and you must remember that you are to decide the points laid before you according to the *evidence*. I have impressed upon you and without doubt the Court will also tell you that the guilt of the accused is in no way diminished even if they thought that their Religion required them to do any of the acts with which they are charged.

If you are of opinion that on the evidence it is proved that the accused did any of the acts with which they are charged, you will be doing violence to the oath you have taken if, in spite of that evidence, you acquit the accused on account of their religious doctrines or on account of any sentiment. The evidence is simple, brief and clear and, if you will only confine your attention to the proved facts, you will have no difficulty in returning a true verdict on the evidence.

—:O:—

Ex. No. 105.

JUDGES NOTES OF THE PUBLIC PROSECUTOR'S ADDRESS TO JURY,

After reading out 131 the Public Prosecutor explained that a bare agreement, even for a moment whether successful or not, irrespective of motives was sufficient to constitute it an offence. The accused say their religion wanted them to do all this. That is irrelevant for the purpose of this case. Religious liberty does not mean license to commit crime. To question one's belief individual question and cannot be decided here. Mahomed Ali even went to the length of saying that he claimed the protection of the Queen's proclamation for committing the crime of Human sacrifice (murder) if his faith sanctioned (ordered) it. It is for you to consider

whether this can be permitted. Soldiers are enlisted for 4, 5, and 10 years, but they cannot leave at the expiry of that period if (1) War conditions prevail or (2) the strength of that unit is 10 per cent below normal. War officially ended on 1st September 1921. So no soldier could be lawfully discharged when these resolutions were passed in July 1921. The second thing, was this, Colonel Gwyer told you that unless men of each company go and bring recruits that company cannot be kept upto its strength. And the resolution declared it "Haram" for any soldier to enlist another. The idea therefore was that the army should be reduced to impotence. All these resolutions were passed not only at Karachi in July 1921 but previously in :—

- (1) Town Hall at Calcutta.
- (2) Assam Khilafat Conference.
- (3) Belgaum Conference.
- (4) Gokak Conference.
- (5) At Nawshero Feroz.

And all that could not be without agreement. The evidence is before you, practically admitted or unchallenged.

There has been no cross examination. You have it proved in evidence that Mr. Shaukat Ali was heard speaking at the Subjects Committee and Mr. Mahomed Ali was also there and all resolutions are settled there. Is that not proof of agreement. Then the Fatwa is signed by three of these accused. 2,000 copies of that were printed and the stock register of the Bombay office shows they were distributed free. As secretaries of the Khilafat conference they must have known all this and, agreed to their printing and distribution.

Then about the attempt. If only it can be proved that a member of the conspiracy whether known to these accused or not, sent the leaflets to the army, that proves the offence and all are guilty. 9 S. L. R. 233 is clear on the point. Quotations from 9 S. L. R.

TRIAL OF ALI BROTHERS AND OTHERS.

233 were then read and explained to show the very wide scope of the section. These people incited their Muslim brothers, by passing the resolutions, enjoining upon them, to bring home to every Muslim in the army that it was "Haram" for him to serve there. Some one, whoever he may be, being of the same opinion, sent the leaflets to the army to carry out the injunctions contained in the resolution. They were not fooling the audience but meant them to do what they enjoined upon them to be their duty. Then they were not bluffing the public or the Government, but I must give them credit for being sincere men and even here they frankly admit that they meant business. Accused No. 6 (the Juggat Guru) denies having had any knowledge of the resolution. Do you believe that. He is an educated man and a keen political worker and reads papers and must have know all this. He is now trying to escape the consequences of his speech by denying knowledge of the resolution.

All others spoke at the conference and took part therein and are therefore guilty as abettors. They informed the people not only that it was haram for them to join in the army but that they should not even help in enlisting others. The evidence is before you. You have to draw your own presumptions and deductions. In respect of attempt you are to decide as jurors and as regards other offences you have only to give your opinion.

(Sd). B. C. KENNEDY,
Judicial Commissioner of Sind.

—————:o:—————

Ex. No. 106.

Accused No. 1.

Chief points in statement.

1. Protection of the Proclamations for religious liberty.
2. No agreement necessary for preaching religious law and none did take place.

JUDGE'S CHIEF POINTS IN MAHOMED ALI'S STATEMENT.

3. To ask soldiers to get discharge lawfully is no crime.
4. Put a condition in the Enlistment form "Are you prepared to over ride your religion in case of emergency?"
5. Difference between the verses in the Quran and those in the leaflets Possibly this is all the work of the C. I. D.
6. As yet none of their number has made any attempt though they are not afraid of making one when proper time arrives.
7. Killing of cows by Hindus cannot be compelled. If a Hindu in the army refused to obey such an order of his officer he can not be punished. Similarly we cannot be punished for asking soldiers to refuse to fight with fellow Muslims, which they have to do by remaining in the army.
8. You have seduced men from their duty to God. We are only trying to bring them to the right path. That is no sin.

Abstract of Mr. Mahomed Ali's address to the Jury.

27th October 1921. Before commencing he asked that Jury be brought near him which was done and the table of the Judicial Commissioner also now faced towards him.

Having dwelt at great length on the importance of this State Trial as compared with ordinary state trials and after trying to convince the jury that this was not a case of Mahomed Ali and 6 others versus the Crown but of God versus man, he pointed out the Queen's Proclamation, as confirmed by the Proclamation of King Edward VII and the letter of King George V on the occasion of their accessions to the throne, as showing that the particular importance of toleration for India, was recognized even by the sovereign. He continued, saying that every one was free to hold any opinion he liked and that opinion has to be tolerated by Government,

TRIAL OF ALI BROTHERS AND OTHERS.

even if it were foolish. For his part he thought that the Crown and the King and the Court were holding very foolish opinion on the question, of their prosecution, but he was glad that the Government had at length given them an opportunity (or had challenged them) to explain themselves on this most important question of Freedom to preach one's religion. He had done only what the Quran enjoined upon him to do and their case, fell under the Queen's proclamation which gave them unbridled liberty to preach anything contained in their religions books. He could quote Chapter and verse to show that each word of the resolution he had been instrumental in passing was enjoined, by the Quran and he was in religious duty, bound, just as every Muslim on the surface of the earth is bound, to preach, and he claimed the protection of the Proclamations, which no law could contravene for doing what he did. He challenged the Government to be frank and either say that there was religious liberty in India and allow them to preach everything their Quran contained or cease all this tall talk and nonsense of toleration under the Proclamation and say " We have guns and cannon and Machine guns and excellent shooting rifles and aeroplanes, and have won the greatest war in History against such powerful enemies as Germany and we cannot tolerate your religious action." He pointed out that the real question involved in their trial was whether in the XX centry so called Christian civilization God's law was to be respected even if it contravened Man's (or earthly King's) law or Vice versa" and the history of the whole world depended a great deal upon the answer.

Referring to his refusal to sit down in Court he wanted the jury to understand that he had no personal grudge against the Judge or the Viceroy or any member of the Royal family, but he could not show any respect to a Court, constituted by a Government which prosecuted them for no other crime than the preaching of their religion. Personally they did not care what the verdict of the Jury was, but before giving that verdict the Jury must understand the

issues involved (which were not confined to India alone but to the whole world on a question of religious liberty of any section or religion) and their consequent heavy responsibilities in the matter before they gave their verdict. They should not be parties to a plot to destroy the liberties of Muslim, for then in turn, Hindu, Cristian and other people's religious liberties would also be destroyed. He regretted the fact that there was no Mahomedan in the Jury but was glad to see that though 3 were Christians and 2 were Hindus, still they were all if not by birth at least by domicile Indians. He appealed to them not for his own sake, because, he did not **care** if even he was transported for life, but because he wanted them to save their own souls and given their verdict according to their conscience. He gave several instances to show that the question was not whether their faith was right or wrong, but that it was whether he and his fellow accused did was enjoined upon them by the Koran and if that was so then he claimed that no law but the Proclamation had application to their pure religious case. As a Muslim, if his God or religion required he would even sacrifice human beings, and even commit murders but be immune from punishment so long as the murders and sacrifices was sanctioned by his religion. It did not at all matter what the Indian Penal Code or the Criminal Penal Code had to say on the point only if there was sanction of his religion to his action. That was quite sufficient to take away from his case the jurisdiction of these Codes. He again pointed out to the Jury that they were not bound to give their verdict according to the wishes of the Public Prosecutor or the Judge, but according to their conscience. He could only respect the law of earthly Kings so long as it did not contravene the law of his religion and the moment it interfered in his religion he was bound to disregard it irrespective of punishment. He would not even obey a Muslim king's orders unless he was perfectly sure that it did not contravene his religion.

Here the Judicial Commissioner asked Mr. Mahomed Ali to stick to the case, because, what he was saying was irrelevant, but

TRIAL OF ALI BROTHERS AND OTHERS.

Mr. Mahomed Ali insisted on going on saying it was his duty to explain to the Jury the law of Islam and show by quoting Verses from the Quran that what he did was enjoined upon every true Muslim by the Quran. The Judicial Commissioner there upon warned him that he would direct the Jury that the verses in the Quran were no excuse for a Criminal offence and Mr. Mahomed Ali said that the Judge had given his opinion even before he had finished his address.

Continuing Mr. Mahomed Ali said that no one, from the King Emperor downwards could compel a Hindu in this country to kill a cow, but that under condition XI of the enlistment form (Re. caste usages) the Government had bound down Hindus and others to disregard their religion and challenged the Court to declare whether a Hindu who refused to kill a cow to prepare beef for the Military, even in the most exceptional exigencies could be tried and punished for "Disregard of duty" or "disobedience of orders?" If he could be punished then there was end to all talks of religious Freedom and the Queen's Proclamation were all bits of paper. If the Government did not like particular things in a religion or particular customs in a religion—then they must give conditional religious liberty and those who accepted the conditions would remain in their empire and those who did not would either go out themselves or drive them out. He did not want to trouble the Jury with all the evidence of agreement led by the Prosecution but would only say that at 1-30 a. m he was only conspiring—if conspiring it could be called—with his brother in sleep, just as every one else does sleep. As to agreement to the conspiracy he said that no agreement was required in a matter of faith and that the agreement if any, did not begin at Karachi in July in the Subjects Committee, but began from the day that he came in this world and called himself a Moslem and that his whole history from childhood onwards could be brought in to prove agreement with his brother. He challenged the Government to produce one single Muslim in

ABSTRACT OF MAHOMED ALI'S ADDRESS TO THE JURY.

India—even the peon of this Court (pointing to Jumma Havaldar) who said that if a particular thing were written in his Quran and if it was a crime under the law to act up to it—he should not, for fear of this punishment act up to it. There might be two opinions on certain points and Muslims who had sold themselves to Government might say that Government grants were permissible but there could be no true opinions on the question “A Muslim who knowingly kills another Muslim, has his reward in hell.”

Referring to the misjoinder of charges he said that under Section 233—The prosecution were not at liberty to jumble up the charges as they had done in this case.

The Judge here informed Mr. Mahomed Ali that the charges could not be recast at this stage and it was therefore no use wasting the time of the Jury by citing Section 233. But Mr. Mahomed Ali insisted on doing so saying that it was his duty to explain every thing fully to the jury and it did not matter whether the charge could or could not be recast. Continuing Mr. Mahomed Ali cited the principle in the Billiard game and said that the prosecution had exactly followed that principle viz. “Hit hard and trust to luck” He pointed out that no direct evidence whatever had been led to prove agreement and there were nothing before the Jury but presumptions and that it would not be right for the Jury to transport them for life on mere presumptions. Here he quoted verses from the Quoran to show how very great a sin it was for one Muslim to kill another Muslim and that it was an unpardonable sin. He also pointed out that it was every Muslim's duty not only to believe in his religion but to act up to it and preach it to others, and that if they were to be allowed only to believe and not to act up to it or preach it then that would be no toleration. He called that intolerance. If they were going to be punished for all that it was their foremost duty to bear even transportation for life or hanging rather than change their faith, by a

TRIAL OF ALI BROTHERS & OTHERS.

single syllable. It was their duty not only not to fight with brother Turks (Muslims) themselves, but to preach to every Muslim Soldier or Civilian that it was "Haram" for him to go and fight with his brother Muslim in Mesopotamia.

Referring to the remarks of Col. Beach (which he read in a newspaper) as to how those who deserted from the army would be faithful to them, he said that he had equal right to ask Col. Beach as to how those soldiers who were not loyal to their God (by killing Muslim brothers) and religion, could be loyal to the British Government. He denied havin conspired to seduce any soldier saying "It is men like Col. Gwyer and Beach who have seduced soldiers from their first duty to God. He for himself had only tried to bring them back to the righteous path of God and pointed out to them that their first duty was to Him and not to man.

Referring to a Book "Brittling sees it through" written by a Christian (Wells) after the war, Mr. Mahomed Ali pointed out that even that Christian emphasized that their first duty was to God and said that he could not understand how this Government wanted them to consider that the first duty of soldiers was to man and not to God.

Mr. Mahomed Ali had not yet finished when the Court rose for the day.

28-10-21. Sd. B. C. KENNEDY,
Judicial Commissioner of Sind

Resumed.

N. B. (The first portion here was a repetition of the Queens Proclamation and the Heavy Responsibilities of the Jury and the importance of the trial and has been left out).

Referring to Mr. G. H. Wells "Invisible King" and "Soul of Bishop" he quoted there from "Render unto Cæsar that which is Cæsar's and unto God that which is God's" and said that they could not render unto Cæsar or King George that first duty, which they owed to God.

ABSTRACT OF MAHOMED ALI'S ADDRESS TO THE JURY.

Here Mr. Mahomed Ali quoted a letter which he had sent to the Viceroy when he was in jail, concerning the Afghan war pointing out that Muslims could not help the Government against the Afghans but on the contrary were bound under their religion to sympathise with the latter unless it was clearly shown that the Afghan war was not an outcome of the treatment meted out by the British Government to the Khilafat, but was an act of aggression pure and simple on the part of the Afghans. He said that the Viceroy never hanged him for that but on the contrary let him off and even arranged, for his passage to England to educate the British public on the matter of the Khilafat and he could not understand how what was not a crime then could be a crime now.

The Judicial Commissioner here again reminded him to stick to the charge, but he replied that he was within the charge though he promised to be brief.

Continuing he said that Government had disallowed a resolution in the Council re-conscientious Religious objectors in the army "and explained that from the Viceroy downwards they were all in conspiracy against religious liberty.

Referring to the charge he said no evidence worth the name and presumptions were not sufficient proof. He knew nothing about the Assam conference till the Public Prosecutor had got the charge amended in this Court—under what law he did not know—from "February to September 1921" to "February 1920 to September 1921. As a matter of fact he was in England in February 1920.

Here he narrated a story of an Australian father who refused to take his foolish son to an important feast lest his foolishness might be found out unless he had promised not to speak a word there; but the foolish man was discovered when the boy did not speak one word in reply to the questions as to what he would eat, and said "The Public Prosecutor has found out that I must be guilty because my brother spoke at the Assam conference".

TRIAL OF ALI BROTHERS & OTHERS.

Referring to the 6th resolution he pointed out the circumstance and (difficulties of the Angora Government and the attitude of Britain towards it) at which it was passed and said that the conditional wording of the resolution did not at all bring it within the clutches of the law. The charge against them was that they declared the law of Islam. That was not a new thing. Not only we but 500 other Ulema had signed the Fatwa, but only we had been selected for trial. The real motive of the Government was to hurt the cause of Khilafat and Hindu Muslim unity and he would suggest to the Government the swiftest and easiest way of dealing with them viz by shooting them down which would dispense with all this show and worry of trial.

Referring to the charge under 131 he pointed out to the jury the discrepancies between the original resolution as passed at the conference (in terms of the Quran) and the leaflets sent out, saying that for a Muslim it was "Haram" to charge even a single vowel of the Quran and there by the person who sent out these leaflets could not be a Muslim or one of their number but possibly this was the trick of the C. I. D. who come mostly from Allahabad and Cawnpore where from most of the leaflets also appear to be posted. The handwriting on all the covers was exactly the same. All this was really the work of the police at the instigation of the Government. Probably the reason why the Government did not prosecute all the Ulema was that it was too moderate and like Lord Clive was astonished of its own moderation. He did not even know of the Fatwa before he saw it in this Court here, but then he was told that the Jamait Ulema had never issued this Fatwa and that it was a forgery by their enemies. He hopes however that the Ulema would turn the forgery into a fact and issue it now.

Referring to Section 505 he said "suppose I were repeating this verse (about killing another Muslim) in my prayers and a Muslim soldier heard it and thereupon refused to go to fight with

the Turks in Mesopot. Then in such a case am I punishable under this heading of "seducing the soldier"? Or in case of a very great military emergency when there was nothing but leaflets to eat and in order to keep the Hindu units of the army in tact they were asked to take beef and a gentleman like the Jagad Guru Shri Shankar Acharya (S. Bharti Krishna Tirathji) were to incudee them never to take beef, is the Swami guilty of seducing soldiers to disregard the orders of their officers? If they are guilty then tell me so and I will sit down. The point will be clear. We shall know there is religious freedom here.

Here he casually referred to his refusal to go in the new Council as a member saying that before any one could go there he had to pass through that lane (Duglan Street Garhi gate) where during martial Law in 1919 Indians were made to crawl like beasts, in the shape of the Guard of Honour provided by the dishonour of "our" sisters.

Mr. Mahomed Ali here began to say as to what he would do if he were under a muslim Government but the Judicial Commissioner interrupted asking him to stick to the point; upon which there was a sharp passage of arms between them. Mr. Mahomed Ali insisting that the Judicial Commissiner should with draw the words "Do not mind about the Koran" which the Judicial Commissioner had used in asking him to refrain from going on at such length in explaining the Koran and in asking him to be brief. After about 10 minutes Mr. Mahomed Ali was allowed to proceed. (The names of the next accused were here called out twice or thrice and he was asked to speak and Mr. Mahomed Ali to sit down but he defied the order saying that he did not fear being taken into custody or even being hanged. He said that he had spoken about the law of Islam to the Secretary of State, the Viceroy and Mr. Loyd George and no one had ever stopped or eved limited him and he refused to allow the Judicial Commissioner to limit him). He was allowed to proceed on the next charge etc. Here he quoted verses from the Koran to

TRIAL OF ALI BROTHERS AND OTHERS.

show that for a Muslim to kill another Muslim without just cause was a sin far greater than even the taking of pork, which was allowed in particularly difficult times, when life was threatened by refusal to take it. He had never asked Muslims soldiers not to fight at the frontier or not to quell rebellions but had only pointed out certain passages from their faith to them. Its consequence might not have been mutiny, but might have been lawful discharge of soldiers and who can say that to ask a soldier lawfully to secure his discharge is a crime.

Referring to the charge under section 117 he said that as there was no sufficient evidence (and only presumptions) to prove the agreement and the attempt which were not at all proved this charge could not stand against them. The leaflets were a forgery. There were discrepancies which no muslim would disregard. They were the work of the C. I. D.

Before summing up he told the jury that generations would look down on the verdict which they would pass. Joan of Arc was burnt alive by the British as a witch but today the Entire French nation hails her as their saviour and Britishers join in honouring her. Washington was considered a rebel in the American War but no Britisher will today deny that he was the greatest man. If Independence of India is to be written your verdict will be a part of that History. For me your verdict is a matter of indifference. I do not for a minute appeal to you to save me. But save you self and save your conscience. On the day of judgment or those of you who believe in transmigration of soul (Hindoos) after this death you will have to answer before God for your verdict. Lord Christ was crueified as a Hypocrite and trator but to day what is the verdict of the Entire Christian world? As for myself I will even sacrifice my own brother and wife and children and even my aged mother at the alter of God if my religion requires it. I stick to every word of the Fatwa and the resolution and will support it even now. If dead my corpse will do it. But save your own soul. Consider before you give your verdict

Initials of the Shorthand writer of the Court.

(Sd.) B. C. KENNEDY,
Judicial Commissioner of Sind.

Ex. No. 107,

Accused No. 2 Moulana Hassan Ahmed.

In words. His speech had nothing new and he simply quoted various passages from the Quran and Hadis to show that their religion compelled them to do what they did and claimed the protection of the Queens Proclamation. He pointed out that Fatwas similar to these which were evidence against them were also issued 100 years ago and again 50 years ago but no action was taken then. He was prepared to die for his religion. He said that he was in duty bound to preach not only but obey the Quran.

"I spoke on the resolution as I was religiously bound to do so".

Initials of the Shorthand writer of the Court.

(Sd). B. C. KENNEDY,

Judicial Commissioner of Sind.

—:0:—

Ex. No. 108.

Accused No. 3 Dr. Kitchled.

He cited the various irregularities in the Lower Court viz.

- (1) Statement not taken.
 - (2) Evidence taken after committal.
 - (3) No question asked about defence witnesses.
 - (4) Charge sheet not read out before committal. Nor explained. Nor translated—translated later.
 - (5) Committal order typed at home.
 - (6) No opportunity given to reply to Public Prosecutor.
- These irregularities he said vitiate the whole proceedings.

He emphasized the importance of the trial and said that he was a convict before also and he said "I am a revolutionary and I will also be a violent non-co-operator if I see that non-violence does not succeed. He did not care for himself and if he had wanted he could defend himself and prove that he was not guilty. But he did not want to defend. Mr. Shaukat Ali's voice was heard. That does not mean there was agreement. He might be opposing some resolution or advising other members of the Subjects Committee against the agreement. He warned the Jury to consider before giving their verdict.

Initials of the Shorthand writer of the Court.

Sd. B. C. KENNEDY,

Judicial Commissioner of Sind.

TRIAL OF ALI BROTHERS & OTHERS

Ex. No. 109.

Abstract of accused No. 4's speeches (Pir Ghulam Mujadid).

I simply translated that resolution. Though under the Quran I am ordered to do much more. We have signed the Fatwa and we were bound by the Islamic law to do so. Shariat commands it. There are so many teachers in the Sind Madrassa and several other schools elsewhere who all translate the Quran and they would then all be guilty. I do not care for jail I am proud to be sacrificed for the Quran. I do not care for Jail. We will not even regard the Khalifa as such if he does not act up to the Shariat. On Hazrat Umar's death it was said that he was Kahlifa because he acted up to the Shariat. It is our duty to preach the Quaran. What does Government mean by prosecuting us. Does Government want we should not preach religion. Gentlemen question of Religion liberty is concerned here. If you have any regard for religious liberty please consider before you give your verdict.

Here he quoted the Hadis to show the sin of one Musaleman killing another. Muslims who join the army have to fight with their brother Muslims and therefore it is my duty to preach to them not to join the army, otherwise God's curse will be upon us. It is God's order for me to prevent my brothers from joining the army and thereby killing their brothers. I must do it. The crime of killing one Muslim is very great. What about the people in the army who kill so many. There is no distinction of caste or creed or place They may be in Morroco or Arabia or elsewhere. They are all parts of the same Muslim composite body. He who kills another Muslim is a Kafir and not a Muslim. I had learnt that some Alim was also coming to help the prosection. I was glad. I thought I would hear what he had to say. But he is not come. There are 6 religious books of the Muslims. Muslim are allowed to kill their fellow Muslim brothers only under three conditions viz (1) for killing another person (2) Adultery—he can be stoned with death (3) A Muslim who deserts his fellow Muslims. Here

ABSTRACT OF PIR MUJADIDS STATEMENT TO THE JURY.

the Government wants us to have the Jamait-ul-Ulema and kill the Muslims. That is precisely what we have refused to do and the case is brought against us. If a person even points to another Muslim in order that he be killed then there is at once something written on his forehead and God will not show him mercy. C I. D. have changed the wordings in the leaflet. A Muslim will not do so. If he does he is not one of our member. Hazrat Abdul said that even the taking of a blood drop of a Muslim will not be pardoned. One drop of blood of a Muslim is more respected than even the Bartul-Sharif. There are 7 doors to hell and one of them is meant for those who raise their hand against the Muslim brethren. Bartul Sharif is only next to the Quran in point of importance. God's angels are displeased with a person who raises his hand against a fellow Muslim, let him be his very brother. Several things are mentioned in Quran and the whole Quran cant be described here in a short time and I will be therefore very brief. In jail we have come across only 80 Hadis if we were free we would come across many more. One who preaches against them will go to Hell. The same thing about service being Haram in army was said about 100 years ago and that Fatwa was not confiscated and no prosecution took place. Perhaps the words of the Queen's Proclamation were yet fresh.

Judge—100 years have not passed since the Queen's proclamation.

Pir—Then another Fatwa was published 50 years ago and another 26 years ago. Why were they not confiscated then? Why no prosecution? We cannot understand how Lord Reading says.

This case is not an interference with our religion. That is mere camoufflage. Either Lord Reading does not know the Islamic law or he did not consider that law before sanctioning our prosecution. We are bound to sacrifice ourselves for religion and I am quite prepared so to sacrifice myself happily. Our religion wants us to go to jail rather than contravene our religion. My grand father and others are unfortunate to be in Afghanistan where they can't

TRIAL OF ALI BROTHERS & OTHERS.

suffer for religion. I only among our whole family am fortunate for that. Should we be Br. subjects or Islamic subjects. When my grant father Sheikh Ahmed Mujadid of Sarband refused to salute the King. My relations are in Afghanistan. My Murids are 12 lacs. King Jehangir sent for my grand father and asked him to pass by a door which was lowered down but my father replied "The head which I bowed down to God would not be bowed before King Jehangir." Just as the judge took off our chairs, similarly the king also thought my grand father was disrespecting him and sent him to Gwalior Jail where he was only Nazar-Band and that jail was not of this kind. Jehangir asked for pardon after some time and released him. I hope this Government will similarly repent and apologize to us. We only want to know whether Government wants us to obey Government law before Islamic Law. According to Shariat we can only obey a King. We will in case of necessity even take pork under pain of death because that is allowed by Islam, but we are under no circumstances allowed to take another Muslims property or kill him. Let the King kill him but he must not do it. But this Government does not even allow me to translate the Quran on pain of being hanged. I am prepared to be hanged not once but as many times as my body takes birth again and again, only if I am hanged for my religion. I do not want to repeat all the holy books. I will be brief. The real motive of our prosecution is the Khilafat and Hindu Muslim unity because that would destroy the Government. Or why have not previous Fatwas been confiscated? I said the same thing at Tatta and other places but no action was taken. It is only now that Government has thought of prosecuting us. What is the cause? First they attacked Khilafat and then now they attack Quran. Let the Hindus beware that if they are quiet now and allow this attack to pass off quietly, a day will come when their holy books will be attacked in turn. I don't care if my whole family is sacrificed or even sentenced to gallows at the alter of the Quran.

Initials of the Court Shorthand writer.

(Sd.) B. C. KENNEDY,
Judicial Commissioner, of Sind.

ABSTRACT OF NISAR AHMED'S STATEMENT TO THE JURY.

Ex. No. 110.

Abstract of Accused No. 5 Nisar Ahmed's Statement.

I will not repent of what I have done. It is Haram to so repent. Dr. Kitchlew pointed out to you the irregularities of the Lower Court. I was only just released from the Muttra Jail on the 13th July and I was arrested by this Court on the 14th July. At Muttra although the Reporter there said that he had not taken full notes still some how or the other I was sent to jail, because, they wanted to send me and there was no evidence against me there at all. We and are subjects they are kings and can do what they like. I do not care. I was asked by D. M. if I wanted to go to Mecca. I refused. I asked if justice had been done to me. He said 'Yes, and I wrote 10 pages judgment'. Is that '*Insa'*' I asked and he made no reply. Do you think that these witnesses are correct who are disloyal to Government. They are Sayeds, but disloyal to God to the King. But Government will say they are reliable. Let them say so. If any one gives these witnesses that amount of money or even a little less, he will at once admit that he was telling a lie. But it is all pre-decided in our case. It is no use arguing here. Every thing is pre-decided. We gave our statements simply to prove the truth or otherwise of Government's claim that they were ruling India conciliatorily. If it is a crime to preach my religion I am prepared to die for it.

Here he emphasised that it was a great sin for a Muslim to kill or hurt another. 5 verses we quoted for the same reason. If the resolution is not sanctioned by the Koran then punish us. But if it is then? Then it is religious matter. I was not even a member of the Khilafat Committee. I never saw those leaflets. I was arrested on July 14th and those leaflets reached the Army in August. That means that just like myself all other people in Jail are criminals. Is this religious freedom? Why not end the whole farce by merely shooting us? I had never before heard of Sessions trials or Jury. This case is not for justice. It is to punish us. The Judge

TRIAL OF ALI BROTHERS & OTHERS.

never agrees with the Jury if it is against his will. Look to the Punjab. The same thing happened there. You will not be powerful for ever. Fear God. Oh God, help Muslims to die for their religion. I support the same Resolution even now, and say that every service under this Government is "Haram". I only recommended that resolution and I am being tried for being a member and having taken part in a conspiracy which took place at a time when I was in the Jail. Well if this is the law I do not mind. I am prepared to die for my religion.

Initials of Shorthand writer of the Court.

29-10-21.

(Sd). B. C. KENNEDY,
Judicial Commissioner of Sind.

————:o:————

Note:—Exhibits Nos. 111 and 112 are abstracts of the addresses to the Jury by Shri Bharti Krishna Tirathji and Maulana Shaukat Ali. They are not reproduced here as full text is printed elsewhere. Besides the matter of these two exhibits has exceeded the page limit at which the work of the Press printing them had been stopped and commenced from the following page at another Press.
Compiler.



(Copy right.)

MOULANA MAHOMED ALI.

Kohinoor Printing Works.

Moulana Mahomed Ali's Address to the Jury.

Moulana Mahomed Ali before addressing the jury turning to the court said:—

Can I have the Jury on this side? I have not seen their faces yet. I want to seduce them like the troops. (laughter in the Court).

The Court directed the Jurors to change their seats accordingly and the Judge also changed the position of his seat turning to the left directly facing the accused.

Moulana Mahomad Ali then rose amid pin-drop silence and addressing the Jury said:

Gentlemen of the Jury:—

I just asked the presiding Judge that he might permit me to see your faces because with the exception of one of your number I had not hitherto been able to see your faces. And I also said that I want to seduce the Jury. Of course there was behind that another intention, not the ultimate object perhaps, but incidental to it, as the Public Prosecutor would say. I wanted you to act as screen in front of the ladies now behind you, or the Public Prosecutor may add yet another charge of seduction against me (laughter), but after all I find that as a result of my effort at seduction I have turned the Judge also towards me to-day (laughter).

Gentlemen, I think I am going to take as much time as I can, so it is necessary to tell you beforehand that if I intended to defend myself or my friends and to escape from transportation for life or the gallows or the jail—(I don't know what the Judge has in store for me)—it would have been absolutely unpardonable. No gentlemen, for that purpose I would not have wanted a single moment of your time or of mine.

I do not want to give any defence. I have no defence to offer. And there is no need of defence, for it is not we who are on trial. It is the Government itself that is on trial. It is the Judge himself who is on trial. It is the whole system of public prosecutions, the entire provi-

TRIAL OF ALI BROTHERS & OTHERS.

sions of the law that are on trial. It is not a question of my defence. It is a very clear issue, and I thanked the Government in the lower court, because for the first time it came out into the open and gave us a chance of having a decision on a very clear cut and pointed issue. That very cut and pointed issue is this: Is God's law for a British subject to be more important or the King's law—a man's law? Call him His Majesty or His Imperial Majesty—exalt him as much as you like—show all obedience to him—show him all the loyalty you can—pay him all the respect—entertain even superstitions about him if you like—but the question is—is this respect—are these superstitions going to stand even for the slightest moment in the way of loyalty which every human being owes to God? Gentlemen, I think not for my own sake, nor for the sake of my co-accused, but I think for you. It is a misfortune that there is not a single Mussalman among you. Three of you are Christians, and two are Hindus. But that does not matter at all. I am speaking to human beings. I am speaking mostly to Indians. I do not know whether all of you are Indians. Perhaps one of you is not, though he too may have his domicile in India and may have come to regard India although an Englishman—as his home and may therefore be regarded as an Indian. I am therefore speaking to a majority of you at least who come from a country which is imbued with the spirit of religion and which is traditionally a spiritual country and which has striven through the ages for the exaltation of the spirit as against the flesh.

Gentlemen, we hear so much of toleration in these enlightened days; and I do not think even the Public Prosecutor would contradict me if I say that we all want toleration. The British Government has never tired of saying that it is a tolerant Government, and that British rule is firmly based on toleration. I do not think that the Government of any civilized country in this twentieth century could say that it is against toleration. But what is toleration after all? It is this as a well-known man said—"Sir, I disagree most heartily with every word of what you have said but, damn it, I shall fight to the last drop of my

MOULANA MAHOMED ALI'S ADDRESS TO THE JURY.

blood for your right to say it." *That is toleration.* That is to say, toleration is required for disagreement, it is required where people are not of the same opinion, where people hold very different views—where they have wide difference, otherwise there is no necessity for toleration. But the tolerant man tolerates all this and sacrifices everything for the maintenance of tolerance. Now, you might say, a man might hold very foolish opinions. I am sorry many men do—I think the Public Prosecutor for one holds some foolish opinions—and we have yet got to see what kind of opinion the Judge holds—that would be after I am silenced—but it is not the question whether a man's judgement is right or wrong—people's Judgement may be foolish—the question is this :—

“ When any person or a body of persons give you a pledge or freedom to hold your own opinions and act up to them, then I think it is their duty to abide by that pledge.”

Now Gentlemen, what the case is against us, we want the whole world to understand. After all, the result of the decision here will not be confined to the audience in the Hall, or to the few scores of thousands of people in Karachi. It was said that the Resolution that was passed here was not meant for the small body of the Ulema and a few thousand people, but it was meant for a larger audience. Now, this trial too is meant not for the audience here in this hall, certainly for more than the five of you. It is really meant for the whole world. We want to have our right to get the protection of the law for our religious beliefs and practices recognised. Let the Government be repentant and say that we have seen the error of our ways (turning to Mr. Ross Alston)—these are the words which my friend Mr. Ross Alston wanted me to say as my last words, and they shall be my last words—but with regard to the action proper for the Government : (laughter). But will the Government say that ? Is it going to abide by the pledge of Freedom of Faith ? Or, would the Government say—‘ No, we are powerful, we are strong, we have dreadnaughts, we have aeroplanes, we have all this soldiery, we have machine guns, we have all this paraphernalia of destruction with us, we command tremendous power, we have beaten the most powerful nation in Europe, though, of course

TRIAL OF ALI BROTHERS & OTHERS.

with the help of 26 allies (laughter) and India's men, money and other resources—but that's another story (laughter)—We cannot tolerate your religious opinions and acts.' If they say that, we can understand that. Therefore it is not for the purpose of defending ourselves but it is to make this issue clear because it is a national issue—nay, more than that—it is an issue on which the history of the world to a great extent depends—whether in this civilised century, man's word shall be deemed higher than the word of God. The trial is not "Mohamed Ali and six others *vs.* the Crown" but 'God *vs.* Man.' This case is therefore between God and Man. That is the trial. The whole question is—"Shall God dominate over man or man shall dominate over God."

Now, gentlemen, you were here though it was not intended for you—you happened to be here — when we refused to stand up when the Judge asked us to do so. We have always dissociated ourselves from and repudiated the idea of showing any disrespect to the Judge. We are not foolish enough to create any unnecessary unpleasantness or to worry the Judge or irritate him. We have no grudge against him but the whole question was with regard to respect to a man as against respect to God. As my brother has said in the Lower Court and as I say before you now, we do not recognise the King any longer as our King—we do not owe any loyalty to any man who denies our right to be loyal to God. I have not a word to say against the King—I have not a word against the Royal family. But where the question of God comes in as against the Government, I cannot have any respect for a Government when that Government demands from me that I must not first respect God and His laws. Therefore the whole question really is, as I have said between God and man. The Public Prosecutor has very skilfully stated his case and when he came to our religious beliefs and the commandments of God, he was anxious to get over it as quickly as possible. He was skating over thin ice. He brushed all that aside. Now I challenge him, I challenge the Judge to give a decision on the point. It is not at all a question of fact with which you gentlemen of the Jury have to deal. If the Judge deals with the ques-

MOULANA MAHOMED ALI'S ADDRESS TO THE JURY.

tion of law in his summing up and sentences us, if the verdict of the Jury goes against us in the case, in which you act as Jurors, and if he exercises his right as a Judge to decide both as regards the facts and the law in the cases in which you act merely as assessors, after you give your opinion as assessors, if he sentences us disregarding our religious obligations, then our course will be clear. It does not matter what punishment we are likely to get and under what section of the Penal Code we get it, as there are any number of sections—Sections 120-B, 1=31, 109, 505, 117 and so on.

As regard these sections and the various charges, so far as I am concerned, I was greatly confused, and I am trying to compute how many years altogether I shall get (laughter). I have but one life and I do not know if it can cover the many years that I shall get if I am punished according to my deserts (laughter). But that is absolutely immaterial.

The whole thing is this : I want decision from the Court on behalf of this Government that the Courts of India cannot give any protection to a man who does the thing that I have done—though he admits that it is precisely the thing that his religion demands—his God demands from him. God is not clamouring from the house-top. He is shouting from his eternally high throne—clamouring from there—“Man whom I have created from just a clot of blood, whom I have raised to whatever of power and glory you possess—whatever you have and whatever you are, it is I who gave it to you and made all this for you—I want you to serve *Me* and not a creature of *Mine*.” Whatever respect I may have for the King, I may not bow before him when he asks me not to bow before my God and his commandments.

The Judge had hinted something about the beliefs of some sects. He said—“Suppose a sect of the Hindus demands human sacrifice.” I do not know if any religion in India demands human sacrifice. It is not a question of individual belief that was involved in our case. Then the P. P. had said that we had different sects among ourselves,

TRIAL OF ALI BROTHERS AND OTHERS.

We quarrell among ourselves as to which of these is right and which is wrong. Well, it is not a question of which sect is right. Do we know which religion is right which religion is wrong? In this it is not a question of our belief alone, it is the question of the belief of every Muslim. But even if it was a case of a particular sect, do you mean to say that the Proclamation of the Queen in 1858 required at that time that each and every one of the 300 millions of the people of India must be agreed—all the heavens and the whole earth and all the planets and the Man in the Moon and all the men in Mars—every one must be agreed that this was the one true and correct faith and it was then that the Queen's Proclamation provided protection? No protection would have been required for such a Faith. What is the Penal Code itself for? It is to give you the protection that I seek—that I may not hurt your religious feelings. In to-day's "New Times" we find that some men —Khilafat men — have been prosecuted in Calcutta because they hurt the religious feelings of a *Policeman*, gentlemen (laughter)—of a policeman—by asking him to resign Government service. (Laughter). I have not the least doubt not these men will be condemned. But you see there is a provision of law even for protecting a policeman's religious feelings. Take another case. A little piece of stone which somemen worship and worship with full intensity—with as much intensity as my own when I say my prayers—possibly with greater intensity than mine—you do not approve of it—you heartily disapprove of it, and want to remove it. But can you do it? You cannot. The law gives the man who worships it its protection. Why does it do so? It is not because the man's religion is good but because of the man's feelings. Because the framers of the law say that it is not good religion that they seek to protect but it is the man's religious feelings. It is not the objective religion but the subjective feelings of the man too that have to be protected. It is this that Lord Macaulay and others sought to protect—the religious feelings of a brother man however foolish and superstitious and wrong they may be. It is this that you have got to protect, and the law provides this protection. But, I base my case upon the Queen's Proclamation and the King's Proclamation.

MOULANA MAHOMED ALI'S ADDRESS TO THE JURY.

So the Judge has got to declare whether these Proclamations have any value in a law court or not. That picture (pointing to the picture of King Edward VII) is there to remind the Judge that he has to give us the protection of the King's law. You will take that law from him because you cannot either take the law from me or from my friend there (pointing to the public prosecutor). If you took your law from him you will be in a perilous state, truly a sad plight (laughter). But in this case, it is not the case of any man's individual opinion or of the opinion of a small number of Mussalmans, though you cannot thrust the feelings—the religious feelings even of these. Here it is not a question of a sect but of a religion. No person who calls himself a Mussalman, can go outside this book (pointing to the Quran). Look at this translation in English. This book is full of repetitions. But you see what a small book it is inspite of its repetitions. Altogether it is only about 500 pages. It is this book which constitutes the chief source of our religious laws. I wish to explain this so that there may not be any misunderstanding. You ought to know where my religion is to be found. I do not take it from any individual's beliefs. My religion is all contained in the first instance in this tiny volume. Then come the Traditions of our Prophet. But about this original source (pointing to the Quran) there is not one single sect of Mussalmans that differs about a single syllable. Therefore you will find that here is a solid bed-rock of our Faith about which there is no difference of opinion. In the case of the Prophet's Traditions, even if one of the companions of the Prophet said that the Prophet said so and so, and if that tradition handed down from his companions is against or in contravention of anything contained in this book, no Muslim will accept that tradition. We shall not believe anything that is attributed to the Prophet if it is against the Quran. But if it explains it (The Quran) or supplements it (*adjuvendi cause* or *supplendi cause*) we may accept it. I wish to make no odious comparisons. But what I wish to point out is that, the four Gospels of the Christian Scriptures, if we have to test their authenticity (Interrupted by the Court).

The Court.—I cannot allow you to go on in this way. It is not

TRIAL OF ALI BROTHERS AND OTHERS.

irrelevant to the case. Are you speaking in your defence or-not ?
What is your point ?

Moulana Mahomed Ali.—My point is that even the Prophet's traditions have been authenticated with the greatest care ; but their testimony too cannot over-ride the dictates of the Quran on which all sects of Islam agree. It has been said that there are sects. Well, I am not going to base my case upon anything which is subject to the differences of the sects. I am going to base my case upon the solid bed-rock of the Quran. If you will give me the opportunity to make the Jury understand what my friend the P. P. has so lightly brushed aside altogether.....

The Court.—I cannot turn this trial into a religious controversy. This is irrelevant. You cannot cite these texts here.

Moulana Mahomed Ali.—They are contained in my statement in the Lower Court. They are on record. I wish to explain their bearing to the Jury. Well, if I am not allowed to explain my case I will stop.

The Court.—Why bring out this religious matter which has no concern with me ? I do not want to limit you unnecessarily. You must confine yourself to the charges against you.

Moulana Mahomed Ali. I entirely differ from the Court in this matter. I think I am entitled to explain as to what my religion lays down without any difference of sects and to prove that this is the religion which the law protects. Tell me that the law does not protect my religion and I am satisfied. I will sit down. I do not know how you are going to sum up the case to the Jury. Therefore before you have summed up and their verdict is delivered I am putting this before the Jury.

The Court.—I shall tell the Jury however that the excuse you offer is no excuse if you have done anything which is a criminal offence—that religion is no excuse for a criminal offence.

MOULANA MAHOMED ALIS' ADDRESS TO THE JURY.

Moulana Mahomed Ali.—Therefore, it seems to me that the mingling up too is already done, before I have done with addressing the Jury. There have been so many things too previous in this trial.

The Court.—Whether you have committed the offence or not has to be decided according to the law of the land.

Moulana Mahomed Ali.—There is nothing which is required by a man's religion which can be an offence in British India as long as the Proclamation holds. You cannot in this country ask a Hindu to kill a cow. Before enlisting recruits you have to take people's answers down and you bind them by a certain oath. This is the form (showing the form) upon which the soldiers are enlisted. People take the oath that they will abide by their pledge. Yet not a single Hindu soldier who takes that oath will kill a cow in spite of all the allegiance that he might owe to the King. Therefore if his officer commands him to kill a cow and the Hindu soldier refuses it, will he be hauled up before this Court? If the commander orders a Hindu or a Mussalman soldier to use cow or swine-greased cartridges—which the Hindus and the Mussalmans won't touch—and he refuses to do it, could he be brought before any Court of law? The Queen's Proclamation will give him the protection—no matter what your Penal Code might say. So long as what I do is enjoined by my religion, no Indian Penal Code or other penal law can touch me because the Queen's Proclamation is there. As long as the Queen's successor is the ruler, as long as the King's picture is here, you, the Judge, will have to take your orders from the Queen's Proclamation and the King's,—otherwise I will know that the whole thing was a camouflage, and that all this talk about tolerance was sheer can't and hypocrisy. Now, in this form you will see there is a question (Reads the form)—“Are you willing to go wherever ordered by land or sea and allow no caste usage to interfere with your military duty?” I take it that every soldier at the time of enlisting has got to answer this in the affirmative and to sign this form. That does not allow the commandant to believe that he religious commandment herefore is not binding on a soldier. Supposing the man is asked to kill a

TRIAL OF ALI BROTHERS & OTHERS.

by his officer to provide bully beef for him. The man absolutely refuses that and he quotes his scriptures and Shastras. No section of your Penal Code will ever assist the Judge or the Jury to declare that this man would be punished because he is acting according to his religion. Say that he can be punished and I sit down. No, gentlemen, you have to write on every section through out the Penal Code and every other law the favourite phrase of the lawyers "without prejudice," i.e. "without prejudice to a man's religion." You say that there are bad customs like 'Sati' which we cannot allow. Then you should declare the customs which you will allow and the conditions on which you will be tolerant. Even murder is not murder if the man's religion demands it. And the Queen gave the law's protection by the Proclamation to that religion. You say there are many religions and sects in this country. Well, then you should have proclaimed that such and such religions shall receive protection. You should have made it clear that on these conditions alone whoever wants to live within this Empire will be allowed to live and be regarded as a loyal subject, that who ever did not want to live within the orbit of this loyalty would either have to walk out of this Empire or would have to be kicked out of it. My friend (the P. P.) told you that we are very sincere people, that we are people who are straightforward. I am thankful to him for this compliment. But he did this for his own purpose, and I am going to use it for my purpose now. Gentlemen, you will now understand that we are not the people who are going to be easily frightened into telling untruths to escape punishment if we deserve it on the evidence led before you. Whatever evidence there is in this case it is of a trivial character and I will not worry you about these trivial things. I am not going to bother about the evidence regarding the time we left the Kanyashala or returned to it or about the Subjects Committee which was led to prove our association. Association with whom! Association with my brother? In that case the Public Prosecutor could similarly have given the whole of our past history and with his chronological order should have placed the evidence before you that my brother was present at my birth—that we lived together in the same home

MOULANA MAHOMED ALI'S ADDRESS TO THE JURY.

—that he took away my pocket-money when we were in school—and when I demanded back my money he beat me black and blue (laughter). This is association, (laughter). All this, gentlemen of the Jury, is trivial evidence. The main case is, “Does the Queen’s Proclamation give protection to the Muslim’s religion or not”? My whole contention is that if we ask the Muslim soldier to give up serving in the British Army and to refuse to recruit, and ask other people not to be recruited, and say and prove that it is to be found in the Quran, then we are immune. You cannot punish us. Where the Penal Code is not opposed to the Quran, it stands. When the Penal Code is in antagonism to the Quran it does not stand. It must go. That is the whole case. If I am wrong in this, let the Judge decide. I will be content. You, gentlemen, must not take what the Prosecution says about individual opinion as affecting our case, though even in that case you have got to think of the man’s religious feelings. I have given you 17 or 18 out of the 34 Hadises and the six verses from the Quran cited by Maulana Hosain Ahmad Sahib. From these very citations the gentlemen of the Jury and the Presiding Judge may understand very clearly what a Muslim must not do. The Public Prosecutor has talked of verses cited without their context. It was to avoid this that I have given long extracts from the Quran so that you may be easily able to understand the context. I say, ask any Muslim of any sect, send for any man—even the Court Chaprasi—and ask him to say if what I say is written in the Quran or not. He will easily point it out for you if he can read the Quran, and if he knows Arabic he will explain it to you. There would be no difference of opinion. I challenge the Government. I challenge the Prosecution to produce any man, to produce any juridical opinion or Fatwa to show that what we declared is wrong. There might be a difference between the Shias and the Sunnis—there *is* a difference about the Khilafat question. The Shias do not believe in the Sultan’s Khilafat. There might be some difference about some other matters ; but there is no difference of opinion about this. As regard non-cooperation generally there might be a difference of opinion. There might

TRIAL OF ALI BROTHERS & OTHERS.

be men who are against relinquishing honours or service or giving up grants-in-aid to schools. They say this is a matter of business not of friendship or co-operation ; you may retain this grant or leave it. But after all it is a small minority that says so and many of it have sold themselves to Government. But so far as the question of killing another Muslim is concerned there is no difference of opinion. This is the main point.

Now, gentlemen, I want to say something about the charges. It was not for you, gentlemen, nor for me, to object to the misjoinder of charges. If I am to address any one on that point, I shall address the Judge. I think I am within my rights If I refer to this. But so far as you are concerned, I may tell you, gentlemen, that any number of sections 109, 117, 120-B, 131 and 505 of the I. P. C. have been jumbled together for the purpose of creating confusion—though section 233 of the C. P. C. lays down that these several charges cannot be joined. Section 233 runs thus —

Section 233.—“ For every distinct offence of which any person is accused there shall be a separate charge, and every such charge shall be tried separately, except in the cases mentioned in sections 234, 235, 236 and 239.”

Section 234.—“ When a person is accused of more offences than one of the same kind committed within a space of 12 months from the first to the last of such offences, he may be charged with and tried at one trial for any number of them not exceeding three.”

The Court.—I do not think you should trouble yourself in reading this to the Jury. There cannot be any re-casting of the charges at this late stage.

Moulana Mahomed Ali.—The general rule is that the individuals should be separately tried and the charges should be separately dealt with ; because if this is not done it will prejudice the accused and it will prejudice the gentlemen of the Jury. I do not know why they are

MOULANA MAHOMED ALI'S ADDRESS TO THE JURY.

jumbled together, but it seems to me that all representing the Crow have criminally conspired (laughter) so that so many sections of the law have been brought in only to confuse everybody. I do not know whether any of you, gentlemen, have understood them clearly. I did not quite understand what was the first charge, and what was the second charge—what was to go before you as Jury and what was to go before the Judge and before you as Assessors. It was not quite clear until to-day. When I was being brought here from Waltair, one of the policemen escorting me in the Special train asked me with what offence I had been charged. I did not know but told him that my warrant had recited sections 120, 131, 505 and 117. The policeman dryly remarked:—

“They may apply as many as they like, for after all they are home-made sections.” (Laughter). I wonder if any of you, gentlemen have played billiards. Well, there are three balls in billiard and you score by hitting your ball in such a way that it hedges the other two or hits another and then drops into one of the pockets attached to the table or forces the other balls into those pockets. But sometimes those cursed balls lie on the table in such a manner that you don't know what to do with them to score and this happens infernally frequently to the beginner. Well, the advice that you will in such a case get from the more experienced player is to hit hard and trust the rest to luck; (laughter) and not unoften you score what is called a fluke in your opponent's case, and a very difficult stroke, of course, in your own (laughter). Well, gentlemen, that's precisely what the Prosecution has done with these charges. It has hit hard and trusts you and the judge for a score. Out of so many sections one may manage to stick. (Laughter).

The whole thing, so far as I understand, is that there are two main offences with which we are charged. The first offence is an agreement constituting criminal conspiracy and the second is the attempt to commit an offence—(after interruption by the Court) agreement to commit a criminal offence which makes it a criminal conspiracy; and secondly to commit an act in pursuance of that conspiracy. These

TRIAL OF ALI BROTHERS & OTHERS.

are the first two charges. Then comes the question of my statement, which was likely to seduce the troops from their loyalty. Then, of course comes the abetment by the several co-accused. I am told the only thing that will go before you as Jury will be the attempt in pursuance of that conspiracy. But I will take up the first charge first—as regards an agreement. I am not quite sure whether any of you, gentlemen know that these sections 120-A and 120-B were added to the Penal Code not so very long ago and I happened to be present in the Council Meeting in which the Conspiracy Bill was passed. I was sitting in the Press gallery, during the lunch interval, when my old friend Sir William Vincent came into the hall of the Council. I was sitting with a distinguished Journalist who has since become a moderate and a particular friend of the Government. Sir William Vincent asked me jokingly if we two were conspiring. I said to him “For conspiring an agreement is necessary, and as you know only too well, I never agree with any body” (laughter). And, gentlemen of the Jury, truly enough there has been no agreement. No evidence has been led about agreement, whether here or in the Lower Court. “It is a matter of presumption” says the Public Prosecutor. And it is really upon “presumption” that they are going to transport me for life—to take me away from my family, to take me away from my girls, to take me away from my wife and aged mother—to take me away from my country, which is still more important to me. And all this is on a matter of “presumption.” Not a single witness came in to say that there has been even a discussion about it. I am not quite sure whether the Judge was filling the gaps in the evidence by asking us questions about this. Any how I said in reply that we never discussed the question about the troops. We are told by the Prosecution that the accused know more than the Prosecution. I think that is perfectly true. As a matter of fact the Prosecution knows so very little (laughter) and they pretend to increase their knowledge with the assistance of the inventions of the Police (laughter). Yes, the accused know what the Prosecution does not. But had they not put all their cards on the table before the Committing Magistrate?

MOULANA MAHOMED ALI'S ADDRESS TO THE JURY.

You, gentlemen, have had a long recitation in this Court when the Clerk of the Crown read my statement made in the Lower Court. In that statement I showed very clearly the whole genesis of these prosecutions, and I hope you listened to it very carefully. It gives you the whole genesis of this case. Well, I am supposed to be a very frank man—we are very frank people. Ex-hypothesi, you will take it that we are truthful people also. So far as any agreement to tell the Muslim troops in India—even what the law of Islamic, is concerned,—there was nothing beyond this resolution before you. But the day a man calls himself a Mussalman he is bound to abide by what is contained in the Quran. If one single syllable of it I reject I am not a Mussalman. I may be the worst sinner. I may be, no matter however so sinful—I will still be, so long as I do not reject anything out of this book—I will still be a Mussalman. But the moment I reject this, however pious or otherwise I may be, I am not a Mussalman. And whatever is contained in the Quran I am required by the same law of the Quran to go and preach to every body in the world—even to non-Moslems. Take the case of my revered friend here, Moulana Hussain Ahmed Sahib. He has been teaching in Medina—he is the disciple of Moulana Mahmud-ul-Hasan Saheb, the late Sheikh-ul-Hind. It was from the Hejaz that he was arrested and taken to Egypt and then to Malta. He was teaching at Medina for ten years. He taught there the Prophet's traditions. Supposing he sits outside his house and he reads the Quran and he reads those very verses that "Whoever kills a Muslim wilfully will find his reward in Hell—He will abide therein for ever. God will be wrath with him. God will curse him and God has prepared for him a severe torment." Supposing when he was reciting this, a Muslim soldier was passing thereby. Will you say that Moulana Hussain Ahmad has committed a crime under Sec. 505 Indian Penal Code. If you will say this, then why all this tall talk about toleration? Or suppose a Muslim sepoy came to a Mosque;—would the Moulana be a criminal because he recited this verse in the service while that soldier was there? Take another case. A sepoy comes to him and says—"Moulana, I want to know what is the law of

TRIAL OF ALI BROTHERS & OTHERS.

Islam. I am required to go to Mesopotamia to fight against the Khalifa—is it lawful for me to go there and fight against Mussalmans"? The Moulana says "It is unlawful." If he says it is lawful then he becomes a Kafir. If he keeps silent, God will curse him and the whole world will curse him. Therefore he will have to say—"No, it is not lawful." It is his duty as a religious teacher when a man comes in and asks him what is the Islamic law to explain to him truly the law of Islam; but if he cannot for fear of the Penal Code tell the truth—then the curse of God comes in.

Take another case. The Moulana goes in a train and finds Moslems going to Mesopotamia to fight against people who are waging Jihad—the Moulana tells them "It is unlawful; this is not allowed by Islam." The Prophet says 'Do not become Kafirs after me by killing each other.' Will you give the Moulana no protection of the law? You may say—Well, it is all right for him to say this in his prayer. And when somebody comes and asks him what is the Islamic law, it is right for him to say so as a religious teacher—but it is not his duty to go to the house-top and proclaim it from there; then it would be seduction—then it would come under Sec. 505 and Sec. 117, or for the matter of that under 121 A or 121 B. I say that *even that is intolerance*. Because the Quran lays down clearly who will receive salvation and who will not. (Quotes the Quran). I am quoting that small chapter of the Quran in which God swears by the world's history—In that God says—"I swear by the world's history—I swear by all the time that has passed before, that all are certainly in perdition but the Faithful, who will do good works and tell other people to do the right thing and to have fortitude in case they are not successful." The four conditions required for a Moslem to win salvation are contained in this, the shortest chapter of the Quran. A man's salvation depends upon these:—That he must have faith, that he must act upon that faith. A man who believes in Islam says his prayers, gives alms fasts in the Ramzan; goes to Mecca and does not hurt anybody. Do you think that he will have salvation

MOULANA MAHOMED ALI'S ADDRESS TO THE JURY.

with only this ? No ! Because the Quran says:—"The third step too you must take—that you must go and preach those good things to every body. You must go and propagate these doctrines. You are not born to save only yourself. You are here to save your neighbours as well. Therefore the three things that a Moslem must do are that he must believe, he must act according to his belief and he must also propagate that belief. If a Muslim says that he believes that killing another Muslim is *haram* and yet goes and kills him, he may not win salvation. But he is nevertheless a Muslim if he really believes that he is a sinner. Of course, if he denies that it is *haram* he rejects the Quran and then he is a kafir. But suppose he believes that it is *haram* and does not kill another Muslim, he may not yet win salvation if he sits idle and let others kill Muslims. But if he is not idle and goes and tells other people also that it is *haram* then too he may not win salvation unless he persists propaganda even if his efforts fail. If he fails in his propaganda and he suffers because of Sec. 505 and Sec. 117 and is sent to Jail—What is he to do ? He must show fortitude ! He may be hanged, he may be drawn, he may be quartered, but he must show fortitude and persevere in his mission. Then only will he win salvation and escape perdition. He must not try to change God's law by one single syllable. He must abide by it and face all the consequences.

Gentlemen, it is not such an easy thing to go to Paradise and claim the embraces of the *Houris*. An Urdu poet says:—

("It is to step boldly towards the sacrificial alter of Love. People imagine it is easy to be a Mussalman." By clipping one's moustache and growing a long bearded and muttering prayers, one does not become a Muslim. He has got to do not only all those things but he has got to do many other things besides, because we are required to do all these things by our religion. It is not enough that I should not go to war. I have got to go and induce other Muslims also not to go to war to fight their brothers. I shall induce him in every possible way.

TRIAL OF ALI BROTHERS & OTHERS.

I must take the rifle out of his hand—but not by force, not by compulsion but by clearly expounding our religious law. We are saved only when we have saved these people from going to fight and kill other Mussalmans.

Gentlemen, a military gentleman like Col. Gwyer in this case went to Bombay. His name is Col. Beach. On the 20th October, or so a telegram in the *Pioneer* tells us, this gallant officer who had gone down from Army Head Quarters, Simla, met the members of my profession—perhaps to seduce them from their duty (laughter)—editors of local newspapers and news agents in a round table conference and among other things what this military officer said was the following with reference to the arrest of Ali Brothers, though the matter is still *sub judice* (and it seems to me that from the Viceroy down to this military officer all at Simla are privileged to do that) (laughter). (Reads) from a paper “Referring to the arrest of the Ali Brothers, Col. Beach speaking as a soldier said that it would be worth while asking those who are trying to seduce soldiers to consider for a moment if a soldier who once turns a deserter would be loyal to any other cause to which he was won over.” That was Col. Beach speaking as he tells you, as a soldier. Well done, Col. Beach (laughter). A most sound doctrine and a remarkably good logic for a soldier (laughter). But speaking not as a soldier but as a Muslim, may I ask who is the seducer? Every child born into this world is first a soldier of God and it is men like Col. Beach and Col. Gwyer who are the seducers that seduce him from his first duty and his sole allegiance. May we not equally ask these Beaches and Gwyers, if God’s soldiers who once turned deserters would be loyal to them and to their cause to which they had been won over. A man’s first duty is to his God. The Quran tells us that before men’s souls were put into their bodies they were asked by God (“Am I not your Lord”) and they answered in unison “Aye”. Well, hang all the souls, gentlemen. There was all the agreement that you need for a criminal conspiracy under Sec. 120-A and 120-B (laughter). No, gentlemen, it is your Beaches of the Army Head Quarters of Simla and our Gwyers of the Western Command that

MOULANA MAHOMED ALI'S ADDRESS TO THE JURY.

seduced soldiers from their duty, if you have *any* faith, if you have *any* belief in God then your first duty, your prior allegiance is to God. Is it not the duty of Christians to believe in Christ ? Is it not the belief of the Hindus—is it not a Hindu's first duty—to obey Lord Krishna ? Still we talk of allegiance to Kings—still talk of loyalty. An Englishman not a Mussalman—but a Christian Mr. H. G. Wells wrote a book after the war—a sort of allegory of the whole British nation—I do not know whether any of you has read it. It is called “Mr. Brittling sees it through.” And what does he say, what does Mr. Brittling, who is supposed to be the average Englishman, see through that terrible war ? He says that religion is the first thing and it is the last thing. A man who does not begin with it and who does not end with it has not lived a true life—has not found the true meaning of life. His only allegiance—his only duty is to God. He might have his scraps of honour, he may have his fragments of loyalty ; but when it comes to the test of loyalty to God, allegiance to God—all these fragmentary loyalties, all these scraps of honour, they are like a mere scrap of paper passed through fire that shrivels up and is scattered to the four winds or merely blackens a man's hand as so much dirt. That is what an average Englishman has seen through this war and publicly said. And it is after this war that God's law is to be brushed aside for us in India because man's law—120-B and 131 and 505 and 117 is to prevail over God's law. When I have Swaraj I will see to it that I do not let any one seduce my fellow country-men from their true loyalty. But so long as I want to reside in British India I claim the protection of the Queen's proclamation. If I were Hindu I would have said the same thing. What was Christ supposed to have said—(interrupted).

(The Court rose for the day in the midst of the sentence).

Moulana Mahomed Ali—Well, gentlemen, the Court stops me at ‘Christ’. I shall tell you to-morrow what Christ is supposed have to said.

The Court adjourned for the next day.

TRIAL OF ALI BROTHERS & OTHERS.

The Court sat at 11 a.m., as usual. Moulana Mahomed Ali continuing his address to the Jury said :

Gentlemen of the Jury, I was explaining to you that the Proclamation of the Queen made in 1858 confirmed by the late King Edward in the Proclamation made on the fiftieth anniversary of the Queen's Proclamation and also confirmed by a letter addressed to the Princes and People of India by King George after his accession to the throne—gave the protection of the law to His Majesty's subjects in British with regard to their religious beliefs and religious practices, and I was telling you that was the whole of our case. And that whatever may be an offence according to the Penal Code, or for the matter of that any other Code, if any person—he be Hindu or Mussalman or Christian—does a thing which his religion requires him to do, then even if that is an offence under the Penal Code or any other law that is enforced in British India, that law cannot stand in his way and he cannot be punished. The law gives him its protection as stated in these three Proclamations. But it is not his word that you are to take ; he has got to prove it that his religion requires it. He has got to explain it. As I had told you yesterday, this trial is really a very important trial because after all the clear issue involved in it is whether God's law is to prevail or whether man's law is to override God's law—whether the Queen's Proclamation has any value—whether the King's solemn pledge has any value or not, whether the Judge is bound by it—whether the Jury is bound by it or not. It will not be possible for me to explain my case when the Judge has summed up. I do not know how he is going to sum up. But it is on this point that the Judge's summing up will be of importance. You cannot take the law either from the Public Prosecutor or from me. But you have got to take it from the Judge. But at the same time I ask you to understand, gentlemen of the Jury, that if you to-day a Hindu or a Mussalman or a Christian his right to do his duty to God—to do what his Faith enjoins him to do under pains and penalties—though not of this world but of another, a future world—if you do not allow him to do what his religion demands of him to do, then I say, you yourselves will

MOULANA MAHOMED ALI'S ADDRESS TO THE JURY.

be party to the destruction of religious freedom enjoyed in this country and given by the Queen's Proclamation. It is not a question of a particular faith—it is not a question of the Hindu Faith or the Christian Faith or the Muslim Faith or the Jewish Faith. Every Faith even that of sceptic—even that of an atheist—has to be protected—but the freedom of all these people will be taken away and I ask you—will you be a party to this? I was telling you yesterday that Mr. H. G. Wells has said in his book "God, the Invisible King" and also in another book of his—a novel "The Soul of a Bishop." He writes a saying has been attributed to the Master Jesus Christ on whom be peace—"Render unto Caesar what is Caesar's, and render unto God what is God's." And then he asks—"Who is this Caesar that wants to share this world with God? What is Caesar's that is not at the same time God's? The world is not divided into two parts—one God's and the other Caesar's. No, there are not the two Kings of Brentford." God is the sole Ruler. And if the king or any other human creature, be he the head of a Republic or the Judge or a member of the Jury—demands from you anything he must demand for God and through God. If they demand from you anything which is against God, then that demand is not to be satisfied. It is God alone whose demand is to be satisfied. This, says Mr. H. G. Wells, is coming to be the universal Modern Religion of the world. Whether it is that or not, it is certainly the religion of every Muslim. It is not a question of my individual faith—my own whims and idiosyncracies, I challenge the Government—I challenge the Public Prosecutor to produce any man in this trial—to produce any man to say—any Mussalman who could say that, inspite of what God says, if the Government of the day says "you must not do this" although his religion requires it, any Mussalman who could say "Well, in that case, I must follow the Government." And a Mussalman who says that, I say openly is not a Mussalman. And I believe that this is also true of the Hindus, Christians and Jews—true in the case of every one who believes in God.

Therefore you have got to see to this that every Mussalman who lives in British India—any where that a Moslem dwells—he is under the protection of the Queen's Proclamation. He is to follow the law of the land but without prejudice to his faith. When we were interned we said the same thing to the Viceroy as we are telling you now. When they wanted to release us from internment, but on certain conditions, that we shall do this and not do the other, we said we shall agree to those conditions, but "without prejudice to our faith." Again as long ago as the 9th July, we sent a letter through the Superintendent of Betul Jail where the we were confined to the Viceroy. Therein we said—"But since Government is apparently uninformed about the manner in which our Faith colours and is meant to colour all our actions, including those which, for the sake of convenience, are generally characterised as mundane, one thing must be made clear, and it is this: Islam does not permit the believer to pronounce an adverse judgment against another believer without mere convincing proof; and we could not, of course, fight against our Moslem brothers without making sure that they were guilty of wanton aggression, and did not take up arms in defence of their faith." (This was in relation to the war that was going on between the British and the Afghans in 1919). "Now our position is this. Without better proof of the Amir's malice or madness we certainly do not want Indian soldiers, including the Mussalmans, and particularly with our own encouragement and assistance, to attack Afghanistan and effectively occupy it first, and then be a prey to more perplexity and perturbation afterwards—these were Mr. Montague's own words—and leave it to us to add one more appeal to the many already made so frantically and so utterly helplessly, for the evacuation of Moslem territory and for sparing the remnants of the temporal power of Islam." And we said—"This is only a repetition in brief of that which we have stated clearly enough and at considerable length in our representation of the 24th April to your Excellency and for this we have ample authority in our religion." I pass on.

"In the presence of the Magistrate and the Police officer who

MOULANA MAHOMED ALI'S ADDRESS TO THE JURY.

used to attend the Friday Service at Mosque we more than once made that position clear. If, said we, His Majesty the Amir desires to enlarge his dominions at the expenses of our inoffensive country and seeks to subjugate its population that has never wished him ill, then we not only do not advocate assistance being given to him by Indian Mussalmans but we will most zealously advocate and lead the stoutest resistance against such wicked and wanton aggression. This is precisely what in September 1917, we had told the Hon'ble the Raja Saheb of Mahmudabad who had visited us at Chindwara and had referred to the possibility of foreign aggression ; and he had thereupon wired to Simla to the Hon'ble Mr. Jinnah apparently for communication to the Government that he was entirely satisfied about our political attitude. We do not want a change of masters but we do want the speedy establishment of a Government responsible to the united people of India, and we hoped we had made the matter clear beyond the possibility of any doubt or misunderstanding."

" But if on the contrary His Majesty the Amir has no quarrel with India and her people and if his motive must be attributed, as the Secretary of State has publicly said, to the unrest which exists throughout the Mahomedan world and unrest with which he openly professed to be in cordial sympathy, that is to say, if impelled by the same religious motive that has forced Muslims to contemplate Hijrat, the alternative of the weak, which is all that is within our restricted means, His Majesty has been forced to contemplate Jihad, the alternative of those comparatively stronger, which he may have found within his means ; if he has taken up the challenge of those who believe in force and yet more force, and he intends to try conclusions with those who require Mussalmans to wage war against the Khalifa and those engaged in Jihad ; who are in wrongful occupation of the Jazirut-ul-arab and the holy places ; who aim at the weakening of Islam ; discriminate against it ; and deny to us full freedom to advocate its cause ; then the clear law of Islam requires that in the first place, in no case whatever should a Mussalman render any one any assistance against him ; and in the next

TRIAL OF ALI BROTHERS & OTHERS.

place if the Jihad approaches my region every Mussalman in that region must join the Mujahidin and assist them to the best of his or her power."

"Such is the clear and undisputed law of Islam; and we had explained this to the Committee investigating our case when it had put to us a question about the religious duty of a Moslem subject of a Non-Moslem power when Jihad had been declared against it, long before there was any notion of trouble on the Frontier, and when the late Amir was still alive."

"One thing has to be made more clear as we have since discovered that the doctrine to which we shall now advert is not so generally known in Non-Moslem and particularly in official circles as it ought to be. A Mussalman's faith does not consist merely in believing in a set of doctrines and living up to that belief himself: he must also exert himself to the fullest extent of his power, of course without resort to any compulsion, to the end that other also conform to the prescribed belief and practices. This is spoken of in the Holy Koran as '*Amr-bil-marooif*' and '*nahi anilmunkar*'; and certain distinct chapters of the Holy Prophets traditions relate to this essential doctrine of Islam. A Mussalman cannot say: 'I am not my brother's keeper,' for in a sense he is and his own salvation cannot be assured to him unless he exhorts others also to do good and dehorts them against doing evil. If therefore any Mussalman is being compelled to wage war against the Mujahid of Islam, he must not only be a conscientious objector himself, but must, if he values his own salvation, persuade his brothers also at whatever risk to himself to take similar objection. Then and not until then, can he hope for salvation. This is our belief as well as the belief of every other Mussalman and in our humble way we seek to live up to it; and if we are denied freedom to inculcate this doctrine we must conclude that the land where this freedom does not exist is not safe for Islam."

MOULANA MAHOMED ALI'S ADDRESS TO THE JURY.

Now, this was the first charge we had brought against the Government. "During the War Mussalmans have been required, *in defiance of their religious obligations*" mark the words gentlemen, "to assist Government in waging war against the Khalifa and those engaged in Jihad." And what do you think the Viceroy did? He did not hang us under Section 121—waging war against the King. He did not transport us for life under Section 131. He simply got us out of internment, arranged that I should go to England and explain the same Islamic law there to the Prime Minister and to other members of the Cabinet: But for the same we are being tried for criminal conspiracy. What is the special offence in our case? What becomes of the case against the thousands and hundreds of thousands—millions of people who are saying the same thing to-day. Why are not they with us? I have complained about the misjoinder of charges because too many accused are tried for too many offences. But you have not room enough in this Hall—nay in any hall—to try each and every one of those together who say that it is his belief too—that it is his Dharma also! As I have said so often it is not a question of individual belief. It is not a question of my own individual belief—I who lived with Englishmen, who went to England to be educated at Oxford—I who was most friendly with the English people—even I have got to say it because it is a religious duty—even I have got to say that no Mussalman should serve in the British Army where he is forced to kill his own brethren for the advancement of unrighteousness. I said it then, and I say it now, that it is religiously unlawful. I said it then, I say it now, and I shall say it all the time. It does not matter if I am hanged for it and I hope when I am dead and gone my carcass will shout out from the grave that it is the faith of the Muslims—(interrupted).

The Court here interrupted the Moulana saying something to the effect that he would not allow a discourse on religious matters there.

Moulana Mahomed Ali.—Will you not permit me to refer to the law of the Quran? My Quran says this is the law. May I have it from you authoritatively that the law for a Muslim is not his Quran:

TRIAL OF ALI BROTHERS & OTHERS.

The Court.—The law of the Quran is not the law of the country.

Moulana Mahomed Ali.—I plead justification for what I did. I am simply stating what my Quran enjoins on me to do what I have done.

The Court.—That is not the law of the land.

Moulana Mahomed Ali.—What I am concerned with is this that my law is to be the first law binding on me and I say that these three Proclamations give me protection.

The Court.—I rule that against you.

Moulana Mahomed Ali.—I am very glad that you rule that against me. Not only has the Judge ruled against the King, but recently in the Legislative Assembly a Moslem Member proposed a resolution recommending to the Government that no servant of the Government and particularly no Mahomedan soldier should be asked to go against the law of his religion, and what did the Viceroy do? He disallowed the resolution.

However, I now come to the first charge against us on which you have to sit here merely as Assessors. But in any case I can address you, gentlemen, though I have to address you as assessors. You have been told and have seen for yourselves that not a single witness was put into the box to prove that there was at any time any agreement. My friend here asked you to take that on presumption. What a presumption! Are you going to hang us merely for this presumption for which there is not the slightest piece of evidence—absolutely none? No gentlemen,—not a single witness has said that he ever saw us, heard us or suspected us to be conspiring, agreeing to commit any offence. I was in England in the month of February 1920, and probably on the very day I was interviewing the officiating Secretary of State when a Conference was held in Calcutta—in which certain resolutions were passed. That was evidence against me. But I do not mind that. The Public Prosecutor no doubt read out Sec. 10 of the Evidence Act to you—that section tells you, he said that it is admissible as evidence

MOULANA MAHOMED ALI'S ADDRESS TO THE JURY.

against me. But my very amiable friend there (pointing to the P.P.) wants you to do something more. He is a very clever gentleman. But I knew what he was aiming at. He said it was evidence admissible against me; but he meant not only that but that you ought to accept everything as gospel truth. He asks you to simply believe every bit of evidence as true and what is more presume everything else required to prove the criminal conspiracy. Presumption has to do duty for proof and any evidence is sufficient to transport us for life. Gentlemen, I may tell you that I know nothing about the conspiracy. When my brother went to Assam I did not know. I did not know of it until the P. P. got up and said that he would bring in a witness to prove this. It was for the first time I learnt that my brother had gone there. The rascal! He goes there without my knowledge and I am to be transported for life. That's the worst of being a younger brother: (laughter). But even that is no proof of agreement to commit a criminal offence. You cannot presume that. It must be proved and proved without a shadow of doubt. As for the Karachi Conference, my brother could have got off on the score of not having spoken. But the Public Prosecutor can fill that gap too. In Australia there was a farmer who had a son—and I am afraid—not a very clever son. People heartlessly even called him fool, and wherever his father took him, through his folly the father got into a sort of disgrace. Once the father was invited to a feast and the son wanted to go too. But the father refused. He was afraid that his son would speak and would be found out to be a fool and he would be once more disgraced. The son then promised that he would not utter a single syllable. And so his father at last consented to take the fool to the feast. The son went there and sat in a snug corner. Several persons put him several questions but the son did not, as he had promised his father, utter a single syllable in reply. So when a man was putting him another question one of the guests said—"what is the use of asking this man any questions can't you see that he is a fool?" The son immediately shouted out at the top of his voice, addressing his father

TRIAL OF ALI BROTHERS & OTHERS.

who was at the other end of the table.—“ Father, father, they have found it out. But I did not speak. ” (laughter). So the P. P. too has found it out that my brother was a conspirator at the Karachi conference though he did not speak (laughter). The P. P. has said that we are earnest people. By the same token, gentlemen, we are truthful people, and though I am not a witness deposing on oath, I say it solemnly and you and the Judge have to take my word for it that there was never at any time any discussion among ourselves about the declaration of Islamic law regarding the Moslem troops serving in the British Army. The Judge put me this question and I said that there was no discussion at any time. Why should there be a discussion about it at all? Supposing to-morrow we hold a conference of the Muslims assembled together in Karachi and declare that there is no God but one God and Mahomed is His Prophet. Do you think it will be necessary for us to sit together and come to an agreement? The moment that I say I am a Mussalman there is that agreement. But there cannot be any time limit to it. It cannot be only between February 1920 and September 1921 (of course you know the addition to the period of the charge was the particular gift of my little friend there, pointing to Mr. Ross Alston.) There was no mention of 1920 before the Committing Magistrate. This is “ slight alteration ” that my slight friend has made to the charge which means twelve months more added to the period of the charge of conspiracy against us. So, believe me, there was no agreement except the agreement that we are Mussalmans. Every Mussalman, the moment he says that he is a Muslim, and accepts the example and the precepts of our Prophet Hazrat Mahomed—God’s peace and benedictions be upon him—that very moment he agrees to this also, that it is unlawful to enlist or remain in an army which must wage war against and kill Mussalmans without just cause. And the Resolution passed at the conference of the Jamiat-ul-Ulema—it was nothing new that they resolved and declared. What discussion or agreement was required for the Ulema to declare the well known law of Islam against the killing of Mussalmans.

MOULANA MAHOMED ALI'S ADDRESS TO THE JURY

or to sign a Fatwa or Juridical pronouncement? Similarly, what discussion or agreement did the two Mussalmans who are our co-accused need before speaking on the Resolution here? They were asked to declare the Shariat and they did it. What related to the army was not a resolution but a declaration of law. But there was a Resolution, too, a solemn resolve and determination that if the British Government directly or indirectly, secretly or openly takes any hostile action against the Government of Angora the Mussalmans of India would be obliged to take to Civil Disobedience in concert with the Congress and to make a declaration at the forth coming Congress at Ahmedabad in December, of Indian Independence and of the establishment of a Republic. Gentlemen, we had provided not only for openly hostile action against Angora on the part of British but also for secret action, not only for direct British action but also for indirect action through the Greeks. Yes, we know only too well our English diplomacy. At Oxford they define Association and Rugby football in this manner. "Soccer" is a game in which you kick the man if you can't kick the ball. In "Rugger" you kick the ball—if you can't kick the man: (laughter). In England, they want to down every other nation and particularly the Turks. But the rule like Rugger is that they will fight themselves only if they can't get another to fight their battle. (Renewed laughter). Gentlemen, we said that in the event of a re-opening of hostilities against the Angora Government, it will be our duty in concert with the Indian National Congress—in concert with our fellow countrymen—to start Civil Disobedience, and that if, this sort of thing goes on, it will be our duty—a duty of tremendous responsibility—we did not consider it to be a light matter—it was a heavy responsibility that we determined to take—the responsibility of declaring absolute freedom and independence of India—to establish an independent Republic of India. This was not said in a light vein, as a jest or mere bluff. This was a very serious matter indeed. We knew what we were about. Every mother's son of us may be hanged for it. We could have been shot down instead of being brought down to this Hall and having this

TRIAL OF ALI BROTHERS & OTHERS.

farce of a trial—the judge and the jury and all this paraphernalia—instead of this lengthy circuitous route there could be a short cut—no prosecution, no judge, no jury but only a firing party at dawn led by Col. Gwyer or Col. Beach and a clatter of rifles and there would be an end of the matter. However we did declare this and in consideration of that grave matter we determined that in concert with our fellow-countrymen we would do either of the two things or both. The prosecution, however, is not for that. It is for the earlier portion of the Resolution which is cited in the order of Government sanctioning the Prosecution. But the previous portion of the Resolution is not stated in its entirety. That Resolution says:—“This meeting further plainly declares that according to the Islamic Shariat it is strictly forbidden to serve or enlist in the British Army or to raise recruits.” Therefore the charge is that we declared the law of Islam and the mere declaration of the law of the Muslims, if it is an offence, then, gentlemen, say so. In that case, if you declare the laws of Christianity that too is an offence. The Hindus following their own religious injunctions declare the Hindu law that is also an offence. Therefore a number of men who demand from an Indian soldier that he must not kill a cow will be guilty of agreement to commit a criminal offence, that is to say, they will be guilty of criminal conspiracy. Now, I say if this declaration is an agreement, if to declare the laws of Islam is an offence and we are guilty then say so, gentlemen. But this is a matter which the judge has got to decide, only you will have to give your opinion as Assessors, and it would rest with him whether he takes your advice or not. There is an Arabic proverb which says “always consult your wife but do what you think best” (laughter). I think that is the law in regard to assessors also (laughter)—always consult your wife, i. e. the assessors, but do what you judge, think best (laughter.) Gentlemen, bigamy for an Englishman or a Christian is a crime and even a Mussalman can have only four wives. But the judge has in this case five wives that are to be consulted (laughter). But the judge will do what he thinks best. I will

MOULANA MAHOMED ALI'S ADDRESS TO THE JURY,

still appeal to the judge because he too has a soul to be saved like ours. I make no appeal to him for my own sake. I do not even appeal to the jury for myself. I appeal to them for their own sakes and have said to them whatever I had got to say in the matter. You will only decide upon the facts before you and let no man say that any outside influence was brought to bear upon your decision.

Now, I come to the charge which is before you as jury. You are the sole judge here. You are "Monarchs of all you survey" here. I would not like you to disagree in your finding. I hope you will agree whether your verdict be for us or whether you come to a finding against us. But let there be an agreement. Let it not be said that the Hindu jurors came to this finding and the christian jurors came to that. Let it not be said that the gentlemen working in the Greek firm of Ralli Brothers gave this verdict and the gentlemen in Forbes Forbes and Campbell gave that verdict. You should be united. I prefer that you should be united in a matter of grave import like this. Let yourself be guided by your own conscience because that after all is the basic law of all Faiths. You must do the right, you must act according to your conscience. Now, on this matter I may again tell you, you are the sole monarch and the charge on which you are to give your verdict is the matter of "attempt", that is, under Sec. 131. (Reads the Section). "Whoever abets the committing of mutiny by an officer, soldier or sailor in the army or the navy of the queen or attempts—that's what we are charged with—to seduce any such officer soldier or sailor from his duty"—I leave out the allegiance with which we are not charged—"shall be punished," etc., etc.

The Court:—You are charged with being members of a conspiracy which attempted to seduce the troops.

Mr. M. Ali:—We are charged with being members of a conspiracy, that is to say, charged with having agreed to commit a criminal offence, and in pursuance of that conspiracy, some body

within this conspiracy, some fellow-conspirators attempted these things. It does not matter whether we ourselves have attempted or some other persons have attempted. True. Well, Mr. Ross Alston of Allahabad, (the Advocate General of the United Provinces assisting the Public Prosecutor) gets some body in Allahabad who gets something printed somewhere and gets that some one to reproduce something from the Ulema Fatwa although he is perfectly ignorant of Quran. All this has to be carefully done. He gets an ignorant Moulvi to copy—every Mussalman fears and trembles when he has got to copy anything from the Quran lest he writes something different and attribute it to God falsely—the Moulvi copies it, gets it published for Mr. Ross Alston—gets it printed in Allahabad or in Lahore he gets the same kind of envelopes; the letters are posted from different places, but mostly from Allahabad where Mr. Ross Alston comes from (laughter). And you have got to transport me for life for this. This is the thing which we are supposed to have done. What is the proof? He (the P. P.) says, this is the proof. A poet says “The appearance of the sun is itself the proof of the sun.” So, in this case too, what further proof is needed? Well, the charge is that these leaflets were sent to Moslem soldiers. That they were posted mostly from Allahabad because some were posted from Cawnpore where Moulana Nisar Ahmad Saheb, one of the accused, comes from, the Public Prosecutor attributed them to him and to us—well, Allahabad is the place where Mr. Ross Alston comes from. The place from which two C. I. D. officers who have deposed against us come—well, from that can you have not this presumption that it is Mr. Ross Alston who did it? (laughter). Well, if this thing (showing the leaflet) is sent round, is that by itself sufficient for you—as men of any sense—you who are practical business men—is it sufficient for you to transport me for my life—to take me away from my children—to take me away from my wife—to take me away from my mother—to take me away from my country which is dear to me—to take me away from God’s work simply because they were posted—

MOULANA MAHOMED ALI'S ADDRESS TO THE JURY.

mostly from Allahabad? Is that or is that not the whole offence? Read it for yourselves. Search for it in the entire record of evidence. If you are conscientious men your judgement must be right. You are conscientious men—you who cannot kill a gnat for nothing, you are not going to transport six men for life—not six men, for at last we find we are to be seven—our revered friend Jagat Guru Shri Shankaracharya* will also go with us Mussalmans, because if there was no evidence against him, it was amply made up after all by the wrath of the perfectly peaceful Public Prosecutor. You saw that furious rage yourself. Not, of course, a real storm, mind you, from such a gentleman but a fairly good an imitation of one—a thing of the proscenium—something just realistic enough to give us the impression that there was a storm at last with lightening and thunder, hail and wind—all this came from my peaceful and amiable friend there (laughter). Are you going to commit all of us on the proof that there are certain envelopes and certain officers from the army received them—Officers! Euphemism could go no further. Yes, officers, if courage in battle and length of service and medals—and those real medals—not of silver hanging on their breasts, but medals of lead bullets that found billets in their bodies and their breasts—so far as these are concerned, really and truly officers, but yet men who have got, even as veterans and heroes of a hundred battle-places, to salute the merest white tyro, the merest callow youth with hardly a moustache on his upper lip but only girlish peach-down because they themselves are brown and black. These are the people who come before you. They come and present before you these things, and say—“a most terrible thing had happened. One verse—one incorrectly transcribed verse from the Quran was sent to us and even without opening these envelopes we scented that they were smelling of gunpowder, smelling of 1857. We rushed to our Officer Commanding and said—‘Sir, save us from Islam! Our feelings are hurt, our religious feelings are hurt. We are being

* NOTE—The Court agreeing with the Jury found him not guilty and acquitted Swamiji.

reminded of our religion ! We are being reminded of our God ! For God's sake, protect us from God.' Does not the Queen's Proclamation give us protection ? We are being bombarded with the quotations from Quran ! We can stand all bombardments but not this ! " And it is on this evidence that we are going to be transported for life !

But, gentlemen of the Jury, I do not want you to save *me*. I want you to be saved yourselves. This is the only evidence and nothing more—not a jot or tittle more than this. If there was any, our friend (the Public Prosecutor) would have told you. He has got to transport seven for life—a large and long transportation indeed ! He took four hours in addressing you—practically a whole day and thereby earned a day's fee, although his daily pay is perhaps greater than the monthly salaries of all of you combined (interrupted).

The Court.—You have no right to make a personal remark. Is it not in bad taste. I know that you don't mean it.

Moulana Mahomed Ali.—I am sorry. But to what do you object ? To the reference to the small salary of the Jurors or the fat fee of the Public Prosecutor and of his little friend ?

The Court.—To any personal remark. It is not in good taste. Is it ?

Moulana Mahomed Ali.—I shall not refer to it again but I thought I might be permitted to commit just one offence even against good taste when I have committed so many against your Penal Code. (Laughter).

(The court remarked something which was inaudible).

Moulana Mahomed Ali continuing said:—Well, gentlemen, this is the main thing for which you have been sworn in as a Jury and taken away from your work—five of you. Well, wherever you may come from, from Ralli Brothers, or Forbes, Forbes and Campbell, or the Customs House, you are here for that purpose, otherwise only two gentle-

MOULANA MAHOMED ALI'S ADDRESS TO THE JURY.

man might have been brought in as assessors, as wives of the Judge (laughter). In this case you are both the husband as well as the wife (laughter). You are self-sufficient. You are the sole judge here as a Jury though there are several other charges—there are sections more than one can number—there are sections 120-B, 117, 505 and so on—for which you act only as assessors. As you may remember, when the Policeman asked me when I was being brought to Karachi, under what sections I was charged and I told him of all the charges and he said—well, they are all home-made sections (laughter) and they can apply as many as they like. So this is the only Jury charge—Section 120-B read with section 131. This is as regards the leaflet containing an extract from the Fatwa. It is the Jamiat-ul-Ulema that signed this Fatwa. We are supposed to be very frank people, so we said this in the Lower Court as well as in this Court that we were glad that the Jamiat-ul-Ulema were at last doing their duty. The Jamiat-ul-Ulema is supposed to be party to this conspiracy. But the Government is very moderate. It has picked out only three Ulema for this trial. The Government is astonished at its own moderation as Lord Clive said of his own loot: "I am astonished at my own moderation." Out of the 500 Ulema who signed the Fatwa only two or three have been brought here. Well, why have not the others been prosecuted? I thought that the Ulema who had done this would have been here. It is for the first time in my life that I saw this leaflet here. In fact, it was for the first time in my life a little while ago that I came to know of this Fatwa of the Jamiat-ul-Ulema on this matter, though I knew of their Resolution in their Conference at Delhi. However, it does not matter if I did not know the others who conspired with me. That is no protection for me. And I do not seek any. But in this case of attempt in pursuance of the conspiracy I thought the clear conspirators were the Jamiat-ul-Ulema. Whatever the conspiracy is, the Jamiat-ul-Ulema is a party to it and I said that at last the association of the Ulema was doing its religious duty. But I was immediately corrected by my friend, brother-in-law and legal advisor, though not my legal representative in this case—Mr. Muazzam Ali. He said, no, the

Jamiat-ul-Ulema too deny the distribution and printing of these leaflets. So I turned round and said in the Lower Court, "well, I am not correct myself, but I hope they will soon convert the forgery into a fact."

But it is the fact, gentlemen, that you have got to deal with, and not with the forgery. Is it a fact that any body is a member of the conspiracy who does this? This is a presumption and not a fact. Well, gentlemen, clear your head of this, of all these cobwebs woven by the Public Prosecutor. It is nothing but throwing dust—good old Karachi dust (laughter) in your eyes. Nothing more than that!

I now come to Section 505. About the abetment of this I have not got to say anything. I have got to deal only with myself in my own individual capacity with regard to Section 505, because I am the biggest offender in the matter and the others are only abetors under Section 109.

It says: "Whoever makes, publishes or—circulates any statement, rumour or report,—(a) with intent to cause, or which is likely to cause, any officer, soldier or sailor in the army or navy of Her Majesty or in the Royal Indian Marine, or the Imperial Service Troops to mutiny or otherwise disregard or fail in his duty as such shall be punished," etc., etc.

This is wider than Section 131, gentlemen, for I may not even preach to the Imperial Service troops of my own state of Rampur about their religious duty. What would my grand father who was the "right hand man" as Government itself testified of his master the then Nawab Saheb of Rampur in 1857 and saved hundreds of Englishmen and English women at the risk of his own life and saved the U. P. Government—what would he have thought of this prosecution of his grandsons for declaring to the Rampur Pathans the law of Islam about sparing the lives of Mussalmans. But that's another story. Well, gentlemen, Col. Beach of the Army Headquarter, Simla, and Lord Macaulay have given me my cue (reads) "with intent to cause or which is likely to cause soldiers to disregard or fail in their duty as such."

MOULANA MAHOMED ALI'S ADDRESS TO THE JURY.

But what is their duty—the first duty of these soldiers which they must not disregard or fail in? When a child is born in a family—if there is any faith in that family—the nurse should say not that a boy or a girl is born, but that a new recruit is born in the army of God. That child must be the soldier of God. That is why the primeval souls were asked this question by God—“Am I not your Lord?” and they said “Yes.” Gentlemen, I am tempted to recite a verse—a verse of my own—a poor thing but mine own—as touchstone said ‘Cinna the poet was killed for Cinna the conspirator, when Caesar was murdered and the crowds had become mad through Mark Antony’s rhetoric. They killed him as a conspirator. He said—“No, no, I am not Cinna, the conspirator. I am Cinna the poet.” But they said—‘Then kill him for his bad verses. (Laughter).

Gentlemen, don’t transport me for life for my bad verses. I address my own fellow countrymen, my own co-religionists and I say to them—you are being reminded of your duty—you are being reminded of your allegiance—you are being reminded of your loyalty—you are being reminded of the pledge that you have given to Government before your God and man—you are being reminded of your honour and you are asked to be faithful. (Recites a verse) “Kindly carry out that first pledge also—the pledge that you gave to God while you are about it. You are loyal people. A little more loyalty will not be amiss.” Can I not say to the Judge—can I not say to the Jury—if these people are not true to their God can they be true to their king? (Pin-drop silence prevails in the house).—the God that gave them everything, life, honour, faith, loyalty itself—the God that has given them the King: if they are not true to their God, they cannot be true to their king. I say God before everything—God before loyalty—God before King—God before patriotism—God before my country—God before my father, mother and child. That is my Faith. Hang me if you like, but having done that, gentlemen, you may commit suicide yourself also, because then you would have murdered your own soul. You may walk and sit and stand and work, but your bodies would only

TRIAL OF ALI BROTHERS & OTHERS.

be moving carcases without souls, fit carrion to provide food for the crows.

Gentlemen, it is the Government—it is they who want to seduce God's soldiers. We want them to bring them back to their pristine loyalty. The law says that in any case there is an exception (Reads)—“It does not amount to an offence within the meaning of the section, when the person making, publishing or circulating any such statement, rumour or report has reasonable ground for believing that such a statement, rumour or report is true.”

The Court—Read out the whole section, Mr. Mahomed Ali.

Mr. M. Ali—I will, sir. I will not leave out one jot or tittle. The Government will have its pound of flesh. In the case of Shylock, they allowed him only the flesh; but they would not let him take a drop of Christian blood. But you can take that too from me, full measures and overflowing. That exception requires that you establish the truth of the statement or reasonable grounds for your belief in its truth and that you made it “without any such intent as aforesaid.” “There is no God but the one God and Mahomed is His Prophet”—Is that my statement? No, it is the creed of all Mussalmans. It cannot be an offence to declare that creed even if it is likely to seduce a man from his allegiance to a King or Government that demands obedience from him in matters involving disobedience to God. Is it an offence to say so? The next offence is asking ten persons or more to commit a similar offence. But for that too the first question is the question of statement. Whose statement? It is not my statement; it is the statement of God. It is a declaration based on the law of the Quran. It is well-known to every Mussalman who understands the Quran. It is not a matter of my own opinion. Let me transport you, before I am transported, say to a place where Arabic is understood, say, Aden. If a Somali or Arab soldier who understands the Quran in Arabic hears Moulana Hussain Ahmed, who was a teacher in Arabia, reciting verses from the Quran against the killing of Muslims, or supposing, as I said yesterday, a man

MOULANA MAHOMED ALI'S ADDRESS TO THE JURY.

comes and tells him he is ordered to Mesopotamia to fight against the Moslems and asks him about true religious law and if he says that it is religiously unlawful for a Muslim to fight another Muslim—would it come under the law? It is a statement; but not his own. It's God's and it is true. Supposing the Government wants a Hindu to kill a cow and some Brahmin tells him that the cow is a sacred animal; it has got to be protected; it is the mother of millions of orphans and feeds us all; It is a symbol of innocence and of helplessness among God's creatures needing our chivalrous protection—you have got to protect it. Is the Brahmin guilty of an offence to seduce that Hindu from doing his duty even though the Army Commander needs that cow for the army's food. I challenge the Army Commander or for the matter of that the Commander-in-Chief to say that it is the duty of a Mussalman soldier or a Hindu soldier to go against his Faith in spite of the fact that the Viceroy has disallowed the Resolution to be moved in the Legislative Assembly—the Council which I was invited to be in. The Pioneer said—"You can influence people. You have such wonderful influence over the people—you have got such talents—you have got the wonderful gift of attracting the masses—will you not come to the Council?" I said in a speech of mine which is the subject of another prosecution, I said that I cannot, of because whoever goes to the Council has got to pass through the "Crawling Lane" on his belly and the guard of honour is provided by our sisters of Manianwala whom a cowardly British bully sought to dishonour.

The Court—(Inaudible) What is your point.

Mr. M. Ali—To that Assembly I was invited to go where no one is allowed to move a resolution like the one disallowed by the Viceroy, that no man, no Mussalman in the Government services, particularly in the Army, shall be compelled to go against his religion. (Reads the form to be filled in by a soldier before he is enlisted).

(The Judge interrupted the Moulana again and asked what he wanted to prove.)

TRIAL OF ALI BROTHERS & OTHERS.

Mr. M. Ali—I want to show what the man is required to do when he joins the army, what is and what is not his duty as a soldier. (Reads) **Mark**, gentlemen, the question is—"Are you willing to go wherever ordered by land or sea and allow no caste usage to interfere with your military duty"—there is no question asked of the man—"Will you do anything which is against your Faith" or "Will you have any objection when you will be asked to commit a sin," or, "Are you willing to go to Hell by land or by sea" (laughter). There is no question like that. The **P. P.** asked me,—he said to me if somebody believes in human sacrifice and your child is demanded you will be the first to seek the protection of the law. In any case, as a non-co-operator these days, I do not want to seek the protection of his law. Neither do I believe that there is any sect that can demand such a sacrifice from other people. The only sect that can demand human sacrifice of other people's children is the sect of the Militarists. They demand it—their Moloch of greed demands it—their Moloch of Imperialism demands it—their greed for Dominion demands it—they want that on the high seas—on God's big broad oceans, whenever a foreign ship passes one of their's, it should dip its flag in recognition of the boast that England is "the mistress of the seas." It is these people who want such human sacrifice.

The Judge asked me—"But what about the thief? Do you want that the thief's hand should be cut off?" I said, if the Government was an Islamic Government I would require this of it. I will have the adulterer stoned to death too, though adultery is no offence in English law. My bargain as a Muslim with an Islamic Government is different from my bargain as a Muslim with a Non-Muslim Government. From Non-Muslim I do not require that they should do anything for me, except permit me to hold my own religious opinions and act up to them with impunity. My religion can impose its obligations only upon me, and not upon others. There is an obligation upon me to tell God's own truth that it is religiously forbidden to join the British Army and to fight a Muslim without a just cause, and that it is unjust to kill a brother Muslim at the bidding of the Government, which is next to infidelity. The Prophet said—the last thing that he said collecting all the people

MOULANA MAHOMED ALI'S ADDRESS TO THE JURY.

who had gone to the pilgrimage together, some 175 thousands people assembled together at mina, and the Prophet asked—"What day is it"(interrupted).

The Court.—I would ask you to stop. Never mind about the Prophet.

M. M. Ali—(Indignantly) I must mind about the Prophet. I think you should withdraw that.

M. Shoukat Ali—Blasphemy and impertinence :

Moulana Mahomed Ali—You must withdraw that. You must make amends. I have got to mind about the Prophet. I have to take a man's life who insult the Prophet.

The Court.—You must stop. You cannot go on.

Mahomed Ali—I am doing what the law allows me. The law says that I am not to seduce troops from their duty. I say it is not a part of a Muslim soldier's duty to kill a brother Muslim. And I am here entitled to argue this till eternity. So long as I want to explain my position I have this right. Take away this right and end this farce. What's the use of this farce. Take out a shooting party and shoot us out of hand, or if you prefer to keep up this farce of a trial, try us after our death, as Lord Nelson once did. I say that no man is required to go against his religion....military duty does not inculcate this.

The Court.—It is irrelevant.

Moulana Mahomed Ali.—I am explaining what my religion says—I have given it in my statement in the Lower Court. It is perfectly relevant.

The Court.—Sit down.

Moulana Mahomed Ali—I have not yet done with sec. 505 and have not even touched the charge under sec. 117 against me. I have

TRIAL OF ALI BROTHERS & OTHERS.

not said one word about that. Am I to be punished without saying one word about it ?

The Court.—I will not give you a right of speech.

Moulana Mahomed Ali.—Will you show me a single sentence in your law books that the judge has the power to take away that right. You have already taken away one of my rights by not allowing me to make a statement before the Prosecution addressed the jury. Your own Bombay High Court says that and the Public Prosecutor agrees. I do not know if the Judicial Commissioner of Sind has laid down another law. Now you are going to stop me again from addressing the jury. You can object to a particular part of my address. You can say—do not say this. But I cannot understand how you can stop me altogether by saying that you will not allow me to say anything more. (The Court kept on saying “sit down” “I won’t hear you.”)

Moulana Mahomed Ali.—I am explaining that it is not the law, that it is no part of a Muslim’s duty to go against his religion. Have I not got to prove that this statement contained in the resolution is a true statement, and not a false statement. Is it relevant or not, I ask.

The Court.—Entirely irrelevant.

Moulana Mahomed Ali.—“Entirely irrelevant” therefore I have not got to argue about that.

The Court.—I have allowed you to argue.

Moulana Mahomed Ali.—The trouble is that you are intervening too much. I say that first of all I do not come under this section. I have got to prove what my faith is ; and that it is not the soldier’s duty as such to go against his faith. I have got to prove why the declaration was made. And I have to prove that that declaration is a true statement.

MOULANA MAHOMED ALI'S ADDRESS TO THE JURY.

The Court.—It is not relevant.

Moulana Mahomed Ali.—Do you think that you are authorised by law to take away that right from me? The law says it does not amount to an offence within the meaning of the section (reads the first part of the exception again.)

The Court.—“ And ”

Moulana Mahomed Ali.—Never mind about “ and ”. I am arguing that it is a true statement. I am not yet arguing about the intention.

The Court.—I do not want to hear you.

Moulana Mahomed Ali.—It is for the Assessors at any rate. You cannot take away the Assessor's right. They will have to give their opinion about this whether I am guilty or not. It is according to law. And the law says this (reads again). I cannot take your word for it. I cannot really. I cannot take any man's word as against the clear provision of the law.

The Court.—Argue your case.

Moulana Mahomed Ali.—It is not your case that I am arguing (laughetr). Well, gentlemen of the jury, (interrupted).

The Court.—I do not want to hear you.

Moulana Mahomed Ali.—You may not hear me as you have done on many other occasions. You have slept through a great deal of evidence that was being read out. You may sleep now. But I have got to address the jury.

The Court.—(With apparent anger) Will you sit down?

Moulana Mahomed Ali.—If I don't?

The Court.—I shall put you in custody.

Moulana Mahomed Ali.—Do.

TRIAL OF ALI BROTHERS & OTHERS.

(The Superintendent of Police was here called in to make the accused sit down but retired without touching him, leaving him standing.)

(The Court directed the Sheristadar to call accused No. 2 Moulana Hussain Ahmed. The Sheristadar then called out but Moulana Hussain Ahmed did not utter a single word or budge an inch.)

Moulana Mahomed Ali (Not minding this interruption) said Now, gentlemen of the jury—

The Court.—Do not interrupt the Court.

Moulana Mahomed Ali.—I am not interrupting the Court. Rather you are interrupting me. I have got to argue regarding this exception. I have got to deal with this. Take away the charges under sections 505 and 117 against me if you can and I shall stop. You have got the power to amend the charge up to the last.

The Court.—I cannot allow you to discuss religious law here.

Moulana Mahomed Ali.—There is no question of religious law. I am arguing about the law of the land, as you call it. I have got to show to the assessors that this declaration of statement contained in the resolution is true because it is based on the Quran and the Hadis.

The Court.—There is no necessity of it.

Moulana Mahomed Ali.—The necessity of it is what I have got to consider myself, not you. You had no right to stop the Prosecution witnesses. You could not have stopped them unless you said that their evidence was inadmissible. You did not stop the Public Prosecutor. He was to prove what he thought was necessary. But you will not allow me to prove what I think is necessary—to prove that it is a true statement of Muslim law that I laid down that it is *haram* to serve in the army. I have got to prove that from the Quran and the Hadis. Material or immaterial, I have got to do it and I am to do it from the Islamic law. I have got to take my law from the Quran and from the King. The king gives me protection for following the

MOULANA MAHOMED ALI'S ADDRESS TO THE JURY.

Quran's law in those Proclamations. That is the King's law. If you do not obey that, then why is the King's portrait over there. (pointing to the portrait of King Edward hung upon the wall.) I have got to take my law from—you have got to take the law from the King. I have got my statement based on the King's law. I do not want to create a scene. I am not here for that purpose. I have not shown disrespect to you even though I could not show any respect to the Court as part of Government. I don't want to be obstinate and cheeky. But I cannot have my right brushed aside.

The Court.—But you take so much time.

Moulana Mahomed Ali.—Yesterday you sent me word that you will give me half an hour more to-day to discuss the supremacy of religious law before I come to the legal point and the facts of the case. I have already finished with that. I say that religion was to be an exception in every case. Now, dealing with the law of land, Sec. 505, I have got to prove that it is religiously forbidden to serve in the army is a true statement and therefore I come under the exception to Section 505.

The Court.—Suppose it is accepted that it is a true statement ?

Moulana Mahomed Ali.—Let the Assessors accept it. Let them give it to me in writing. Will they give it to me that this is considered to be proved. Tell me that this is proved—that my statement is true. I will not go on. Then I will not argue one word more about it. Ask the Public Prosecutor whether I have got the right or not.

The Public Prosecutor.—We admit that the passages cited in his statement before the lower Court are in the Quran.

Moulana Mahomed Ali.—I want you to admit more than that. I want you to admit that this statement for which I am charged under Sec. 505 is in accordance with the Quran and the Hadis.

Public. Prosecutor.—We can't admit that.

Moulana Mahomed Ali.—If you won't admit that I have got to prove it. Supposing a Christian is charged for making a statement of his belief in God the Father, God the Son and God the Holy Ghost. He says that he has got to prove that that is the Christian belief and is a true statement. He says "I will show it from the Bible, I will show it from the Epistles—I will show it from the Gospels—I will show it from the Prayer Book" Will he not be entitled to do that? Will I, a Mussalman, be a fair judge—do you think it will be fair of me not to allow him to prove that this is a correct statement of the Christian Trinitarian's Faith?

The Court (Nodding his head) Sit down.

Moulana Mahomed Ali.—I cannot sit unless you admit that my statement is true. I should like to say one thing. I really do not want to be obstinate. I do not want to be needlessly importunate, out of sheer cussedness and ill will against the Court. I do not want to show any disrespect to you. This does not tally with any part of my character as an accused person or as a Non-co-operator. But at the same time I want to stand on my right.

The Court.—You are wasting the Court's time.

Maulana Mahomed Ali.—I am not wasting any body's time. I just want to convince the Jury that the statement is a true statement.

The Court.—It matters not.

Moulana, Mahomed Ali.—It matters a great deal to me. It matters much so far as I am concerned. It matters a great deal to prove to the gentlemen of the Jury that this is in accordance with the Quran and Hadis and that I did not fabricate it. I may have made a false statement. Supposing I commit a rape and I come in before the Court and I say that my religion allows it. You can say—"show it to me from your religious law". You will not take my word for it and you will have to allow me to prove it. What is it after all? I am not

MOULANA MAHOMED ALI'S ADDRESS TO THE JURY.

asking for protection for a murder that I have committed—I am not asking for protection for arson that I have committed—nor am I seeking protection for loot. Loot becomes sacred when the Army Commander orders it. Murder is no Murder when the Army Commander commands it. In my case too, when the Quran commands it murder is no murder. So when I refer to the Quran you can say—"show it to me".

The Court.—Suppose we admit it for argument's sake.

Moulana Mahomed Ali.—I want it to be admitted for all purposes. I may not argue one word about the intention. Gentlemen, I am not speaking in my defence. But I must prove that this was a correct statement. I had the same difficulty with my friend Mr. Montague. He said "far be it from me, Mr. Mahomed Ali, to intervene in a discussion about your religion." I said to him "Please do let us discuss it and let me prove to you what my religion is". I was actually in tears before him when I told him it was no pleasure to me to be against his Government. He respected those tears. I explained the religious law about the Khilafat and the Jazirat-ul-Arab and he had to listen. I had to explain my religion to Mr. Lloyd George also and to some other members of the Cabinet and they had not said that they had nothing to do with the Quran. I want to prove that this is a correct statement and you must not take away my right to prove it. Will you allow it?

The Court.—If you will only do it in a very short way. (The whole house burst into peals of laughter at the Judge's relaxing at long last.)

Moulana Mahomed. Ali.—(To the Court) Why did you not say so before. Of course, I will do it in a short way—in fact in a *very* short way.

The Moulana then quoted some three or four verses of the Quran already cited in his statement in the Lower Court and added short comments to prove that these made service in the British Army, which

TRIAL OF ALI BROTHERS & OTHERS.

was being used to kill Mussalmans without just cause or to destroy the Khilafat and the temporal power of Islam, unlawful. Thereafter he cited a few of the traditions of the Prophet cited in the Lower Court statement and explained their bearing on the declaration contained in the Resolution. The verses and the Hadis cited were the following:—

1. “It is not for one of the Faithful to kill another but by mischance”—and thereafter follow the severe penances prescribed even in cases of such mischance.” (Sura-i-Nisa, Chapter IV.)
2. “But whoever shall kill one of the Faithful wilfully, his recompense shall be Hell; for ever shall he abide therein; God shall be wrath with him, and shall curse him, and has prepared for him a great torment”. (Idem.)
3. “O ye Faithful! devour not each other’s substances falsely except that it be trading among you by your own consent; and kill not your own people, verily God is unto you merciful. And whoever shall do this of malice and wrongfully, We will soon cast him in fire, for unto God is this easy. If ye shun the great things that are forbidden, We will blot out your faults, and We will lead you into Paradise with honourable entry” (Idem.)
4. “After recounting the story of the first killing, the murder of a brother by a brother, the crime of Cain in spite of Abel’s declaration of his own doctrine of non-violence, the doctrine of every Moslem in like circumstances, “Even if thou stretch forth thy hand against me to slay me; verily I fear God, the Lord of the Worlds”, the Quran says:—“For this, have we obtained unto the children of Israel that whoever slayeth another soul unless it be for man-slaughter or for spreading disorder in land, it is as though he slew all mankind; and whoever saveth a life it is as though he saved all mankind alive. (Sura-i-Matdah, Chapter V.)

5. "And (the servitors of the Beneficent God are) they who call on no other gods but God, nor slay the soul God hath forbidden to be slain, except for just cause, and commit not fornication, for he who doth this shall meet the reward of sin (that part of Hell which is known as Asam). Doubled unto him shall be the torment of the Day of resurrection, and therein shall he remain, disgraced for ever" (Sura-i-Al-Furqan Chapter XXV.)

... ..

1. "Shedding a Moslem's blood is not permissible except in three cases, when a life is taken for a life" (i. e. as pu-nishment for a renegade deserting his side). (This is to be found in the most authentic collections of Bukhari, Moslem, Tirmizi, Abu Daud, Nasai and others.)
2. "A moslem is he from whose tongue and hand a Moslem remained immune."—(Bukhari B. Moslem—M. Abu-Daud-Ad, Tirmizi—T &c.)
3. "To abuse a Moslem is wrong doing; and to war against him is *infidelity* ('Kufr'). (B. M. T. AD. Nasai-N Ibn-i-Maja-IM.)
4. "He who bore arms against us is not from among us" i. e. is not a Moslem any longer (B. M. T. AD.)
5. "Even if the inhabitants of all the heavens and all the earths were accessories in the slaying of a single Moslem, God will certainly push them all into fire." (T. Behaqi-Bq-Tibrani-TB).
6. "Who so assisted in the slaying of a Moslem even with half a word, shall meet God with this wrtitten between his eyes; "Despair from God's Mercy (i. e. he shall receive no portion of God's abounding Mercy)". (IM. Bb Asbahani.)
7. "God may, it is to be hoped, forgive every sin, but not the

TRIAL OF ALI BROTHERS & OTHERS.

man who died while still an infidel nor the man who killed a Moslem wilfully." (AD. Ibn-i-Haban-N-Hakim).

8. "Let him who can see it that there is not between him and Heaven even a handful of a Moslem's blood, even as much as a fowl's which is killed for food, for whensoever such a man will present himself before any of the gates of Paradise, God will interpose Himself between him and Paradise." (TB.BQ.)
9. "When two Mussalmans quarrel with each other and use their swords, both the slayer and the slain shall be cast into the Fire". When the people said "O Prophet of God, the reason for the slayer being cast into the Fire is plain but why the slain as well? The Prophet replied, "Because he had intended to kill his companion". (B. M. T-&c.)

This statement of mine, gentlemen, is entirely based on the Quran and the Hadis as you can now see for yourself and the Moulana Hussain Ahmad Saheb will after me prove it to you still further. More than this, you have got the correctness of it established in the Fatwa of the Ulema. But that has been turned from proof of our innocence into proof of our guilt.

Gentlemen, I do not know whether a man is exempted or not in the army from observing his caste usages. This form includes merely a question about them and we do not know what happens to the intending recruit who wishes to observe them. But this is not a caste usage. This is a case of going against religious law and if a man's military duty was to go against the religious law—if the Army Commander thought so, he should have asked this question. Let them ask every Hindu soldier—let them ask every Mahomedan soldier and note to what they say. Dante wrote in his *Inferno* and Milton quotes it in his *Paradise Lost* also, that this legend is inscribed over the gate of Hell. "Whosoever enters must leave all hope behind." So

MOULANA MAHOMED ALI'S ADDRESS TO THE JURY.

it should be written over the portals of the British Indian Army. "Whosoever enters this must leave all Faith behind." On a famous occasion the German Chancellor had said:—"Necessity knows no religious law" and those who execrate this lawless doctrine are being punished as law-breakers. What we want is that Government should be straightforward and honest about it. At present people go to the Army apparently with their eyes shut. We ask that they should go with their eyes open. If they join the Army knowing very well that their religious law, and its obligations on them will not be respected, but would be sacrificed to the Moloch of military exigencies and that, one Queen's Proclamation and two King's Proclamations will afford them no protection, no body will then blame the Government. All the sin would be those people's who knew all this and yet joined the army. But what is it after all that Islamic law demands to-day. For what offence does it seek the secular Law's protection? Not for human sacrifice. I do not say—"shoot your officers—kill them." No, on the contrary I demand that they be not guilty of the human sacrifices of their Muslim brothers—of fratricide. When you took them to fight the Germans on the outbreak of the War, I did not say—"Do not fight with them." I do not say, if there is disorder in Karachi and Muslims are rioting, that Muslim soldiers should not go and stop that. In this form (showing the form of Enlistment) all sorts of questions are asked. The form says "the following 9 questions" but there are really 14 and not 9 questions in all (Reads all the question). I do not know what happens if he says he is unwilling to be vaccinated or even to be re-vaccinated—as some Hindu may well do so on account of the vaccine or lymph from the cow. I do not know what happens if he says he is unwilling to cross the black waters or give up a caste usage. The solemn declaration of the intending recruit only says that the answers are true and that he is willing to fulfill the engagements made without explaining what they are. But let us presume that he has expressed his willingness to be vaccinated and re-vaccinated and to go wherever ordered by land or sea and allow no caste usage to interfere with his military duty and that there are the engagements. But whereas the 15th question, which should

have been: "Are you willing to do anything you are ordered and allow no religious commandment to interfere with your military duty? Are you willing to forego your religion." Where is such a question in the form? If the man says "Yes" then it is alright, and if he refuses, you can chuck him out. But you don't ask him this question, you dare not do that—and yet you take him in and if he refuses to commit the most grievous sin short of becoming a renegade and an infidel at heart as well as outwardly, you say he has failed in his military duty. But that is according to your own form of enlistment no part of a soldier's duty as such. Therefore, Sir, it is not a question of seduction from duty. As I have already said, we are teaching him his first duty—that his first duty is to God and the second duty is to his country and his King. Gentlemen of the Jury, the Proclamation came, as you know, after the greased cartridges affair and the Mutiny, and it was to repudiate precisely this unlimited connotation of military duty that it was issued in 1858. But what is the tearing with one's teeth of greased cartridges or eating a whole pig compared to the sin of killing a Muslim? I have already stated in my statement in the Lower Court and I repeat it that if a man is threatened with death unless he consents to take pork, he may not only take it, but *must* and if he is killed on account of refusal to do so, he dies a sinner. In like circumstances he may even declare that he is a *kafir* if he continues to be a believer at heart, though it is preferable not to do so, and if he is killed on account of refusal to do so, he dies a martyr. But in like circumstances he must not kill or dismember another Muslim but patiently submit to be killed instead. And you dare not ask a Musalman to touch cartridges with pig's grease as part of military duty since your experience of 1857 and the Proclamation of 1858 and yet you call it part of military duty to kill Mussalmans which is far worse than eating pork and worse even than outward apostacy. The absence of such a question as I have suggested means that the Government understood what it would lead to. We consider it a part of our duty therefore to remind the Muslim soldier of his duty to God to demand from a Musalman that he must carry out his God's law. That is not seducing him from doing his duty in the army, and in any case, he need not desert or fail in his duty

MOULANA MAHOMED ALI'S ADDRESS TO THE JURY.

but appeal to Government through his superior officers that such duty as is against his religion may not be required of him. There is therefore neither a likelihood nor intention of seducing a soldier from his duty as such.

Now comes Sec. 117, against me. This is the only other section. (Reads) "Whoever abets the commission of offence, by the public generally or by any number or class of persons exceeding ten, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both."

But where is the *offence*? There was no criminal conspiracy as I have explained under Sec. 120-B. There was no attempt made by us or by a fellow-conspirator under that section and section 131 as I have also explained.

The Court—Mr. Mahomed Ali, you are charged that you at this meeting and other places abetted ten or more persons to commit.....

Mr. M. Ali—It says whoever abets the commission of an offence by the public generally or ten or more persons etc. But what is the *offence*? The offence is to ask the Muslim soldier to do his duty to God—to bring the law of Islam home to him. But that is no offence. Therefore I have committed no offence. And when there is no offence that I abet, the entire ground is taken away from under the feet of the Prosecution.

In the evidence you have it that there were two or three thousand people and two or three gentlemen on oath declared that there were only two thousand people and that they were mostly Mussalmans. I was the President there—at that meeting—and so in a better position to tell you how many people were there. When I returned to Bombay from Karachi I said to Mahatma Gandhi I was astonished to see that at least half of that big audience was composed of Hindus. But that shows that the Khilafat is a national question and not an exclusively Muslim question. The Marhatta gentleman who told you about the Gokak resolution said that there were fifteen hundred people and the whole area of

that Conference Pandal was not more than that of this hall and its Verandahs. The Pandal where the Karachi All-India-Khilafat Conference was held—it was not far from this place—that pandal was ten or fifteen times as large as this hall and was absolutely packed—not less than ten thousand people were there. Therefore it is not a question of instigating ten people but ten thousand people to do what we asked them to do in that Resolution. But we did not instigate them to commit any offence. Cook your hare by all means, eat it, digest it; but you must catch your hare first. But my friends—(pointing to the P. P. and Mr. Ross Alston) they have not yet even scented their hare much less caught it. They have not proved that there was really any offence at all that we abetted. What was it that I told the people? To bring it home to them that they must do their duty to God. (Reads from his copy of the Resolution but the Judge interrupted) (To Court) I must read my copy because I must give you the exact words of the Resolution as it was put, moved, seconded, supported and passed—the *ipsissima verba*. (Reads in the original Urdu).

Not my opinion or statements or even the Karachi Conference's declarations, but the commandments of Islam in this behalf were to be brought home to the Muslim soldiers. Has it now become an offence even to declare that it is the duty of Mussalmans to communicate the law of Islam itself to the Muslim soldiers. I said yesterday that the Government would not be able to find a single Mussalman who says that this is not the law of Islam. But suppose that they find such a man, suppose they create such a man for we may even credit them with the function of the Creator's when they demand obedience to the behests as against the Creator's commandments—they create such a man and make him a Moslem also, and he says that the law of Islam says that every word of command in the army is God's own commandment—when the Commander says shoot a Muslim—he should be instantly obeyed. What do we ask? We say, carry the religious law of Islam to the soldier—the Muslim soldier. I don't say carry my interpretation of it. I say—carry the law of Islam on the subject to the

MOULANA MAHOMED ALI'S ADDRESS TO THE JURY.

Mussalmans in the army. Is it an offence even to propagate the law of Islam? Supposing the man is entirely against me. He says—No, it is not a sin to kill a Mussalman—it is the bounden duty of a religious Muslim to kill a Muslim when the Commanding officer orders it. I don't say to him—don't carry this to the soldiers but take the law that I lay down. I simply ask him what ever the Islamic law says, that he has got to carry to the Muslim soldiers. I knew a gentleman who got a title and whose sons got several posts because he happened to hold certain very peculiar doctrines about the Muslims and particularly the Muslim soldier's duty to the temporal ruler for the time being. He used to engage Maulvis to go into the requirements and preach his doctrines of loyalty at all times and at any price. But now it seems even that would be an offence, for the P. P. says it is offence under Sec. 117 I.P.C. to declare that it is the duty of Musalmans in general and the Ulema of Islam is particular to bring the law of Islam home to Muslim soldiers. Or is it an offence only if I ask ten persons or more? If you ask two for three men, it does not matter? If you ask ten, the moment you come to ten that is ten complete" or you ask the public generally, you will be hanged. At any rate, gentlemen, you must go by what I have said and what the shorthand C. I. D. man has taken down and not what some pitiful Police liar has sought to put into my mouth.

(Maulana Mahomed Ali sent for Inspector Lakhti Husain's transcript of the Urdu Resolution as read out by him at the Conference and found it tallied exactly with the copy he had from the Bombay Central Khilafat Office on the letter paper of the Reception Committee of the Karachi Conference showing that it was made at the time of the Conference itself. But the translator of the Government had mistranslated (Urdu) into "these commandments" which would make section 117 I.P.C. applicable if section 505 was found to be inapplicable, whereas the actual words of this part of the Resolution did not refer to the declaration of Islamic law that military service was *haram* contained in the earlier part of the Resolution, but to Islamic law generally.)

Gentlemen of the Jury, I am not anxious to get off. I am not anxious for my defence. I make no defence whatsoever, though I had to explain the law of Islam to you and explain the bearing of that on the position we have taken up. I have not cross-examined witnesses nor produced evidence on my own side. But I want you who are mostly my countrymen though co-operating with this Government to consider this. You will find that in the history of the world many celebrated trials have taken place and many great people have been declared guilty of many offences. In English history itself even poor Joan of Arc was killed for a witch. But with what result? Her golden statue stood before my hotel in France and while I was there the Catholic Church led by the Pope and the College of Cardinals canonised her and what did the successors of those who had burnt her do? Why, the British army joined the French in honouring her memory and in placing wreathes on her statue. I was present at such a scene. George Washington was a wicked rebel in the time of George III, what is the verdict of the British Government to-day? He is the greatest patriot:

I should like to address a remark or two particularly to the solitary Englishman on the Jury. Englishmen are not bound to follow the majority of their countrymen, particularly in unrighteousness and injustice. Believe me, throughout English history it has been the minority that was mostly in the right and at any rate it was the minority that began great and good movements. A great cause had never been started in the world's history by the majority. It was not Pilate that was crucified. It was Christ—God's peace and blessings be on him: Pilate was the judge who pronounced the verdict against Christ: But who pronounces the verdict now and who will pronounce it hereafter? On the last Day of the Day of Judgment, it is God that will pronounce the sentence on Pilate who did not know what was truth, and ask that famous or in famous question so cynically. But where is Pilate now. Who ever remembers him—the great crucifying judge, except for Christ's crucifixion? Now to millions of human beings Christ is the Saviour. But who am I, a humble individual, to compare myself with Christ who am

MOULANA MAHOMED ALI'S ADDRESS TO THE JURY.

not worthy even to take the dust off the feet of Christ ? But as the Poet has said. :—

“Weakness never need be falseness--Truth is Truth in each degree.”

“Thunder pealed by God to Nature, whispered by my soul to me.”

And in the thunder peals of British howitzers the still small voice of humble man's soul has whispered into his ear this little bit of truth—God's eternal everlasting, soul-sustaining Truth—that he must not stand by and see Muslims being slaughtered by Muslims in spite of God's clear law, but must preach against it and propagate God's Truth, unshaken by fear of man and untroubled by mundane consequences.

Gentlemen, take another case—the case of the martyrs of Karbala. The Prophet's grandson had only 72 men and Yazid's army had thousands and they killed him. He was then in a small minority. But for thirteen hundred years the mourning for that vile deed—the deed of the Government in Power—has been going on. Every Muslim mourns for Hussain the victim and not for Yazid the victor, and many Muslim cities have a quarter just outside known as Karbala, while no trace of Yazid's grave can be found anywhere. So, gentlemen, do not think of the consequences of your verdict to-day or to-morrow, but of its ultimate consequences here to human freedom and hereafter, in another world. And you have got to judge for yourselves. Ralli Brothers cannot judge for you. Forbes, Forbes & Campbell who objected to a small white Gandhi cap cannot judge for you. Mr. Lloyd George cannot judge for you. God on his judgment Day will ask Lloyd George about his soul, not about ours, and he may have much to answer for. God will ask you about your individual souls and not of others. He won't ask Ralli Brothers or Forbes, Forbes & Campbell about it. And if as a Hindu you believe only in punishment in this very world through the cycle of transmigration of souls, you must remember that according to your belief God's judgment will be visited upon here and not hereafter and you

TRIAL OF ALL BROTHERS & OTHERS.

will be judged the moment your soul quits its abode in your body and seeks another. Whatever your creed, your *Karma* is your own and the final judgement does not rest with you any more than with the Judge there but with God—the Lord of all the worlds.

Gentlemen, I have taken much of your time, far more than I had intended to take or would have taken were it not for being constantly interrupted and stopped. But as I said at the very outset, had it been a case of my individual defence or of all of us accused together only, I would not have argued at such length and with such persistence. I do not seek to avoid punishment for the jail is the gateway to India's freedom. Had I sought to avoid punishment, I think I would have smashed the entire prosecution and proved my case according to the canons of this very law—the so-called law of the land. I could have cross-examined the witnesses and torn their evidence to shreds—I was really tempted to do that in the case of Col. Gwyer with his enlistment forms and his "soldier's duty as such". I think I may say this though I do not pretend to be a big lawyer like my friend the Public Prosecutor or his little assistant, nevertheless, the case is so hopelessly weak that it could not keep us shut up in the jail for a day even if the Ex-Lord Chief Justice of England himself, better known as Rufus Isaacs, K. C. had his Government's brief. But although a Non-co-operator and therefore debarred by my duty as such to defend myself I had to speak up when the Viceroy indulged in his hill top *obiter dicta* on a matter which he knew and admitted was *sub-judice*. He said that this was no case of an attack on Islam or religious interference. What could be a more flagrant case of both? If the tallest poppies are to be cut off for upholding Islam and its laws and you ask those who remain what is your opinion about the laws of Islam" which only means "your turn next if you dare to tell the truth" and you cut off their heads too if they still dare. The result may well be that there will be none to stand up and oppose your will. And then you will say "we interfere not with your faith." If this is non-interference, you can enjoy the self-complacence induced by such boasts of toleration. But that is not all. We are asked to look

MOULANA MAHOMED ALI'S ADDRESS TO THE JURY.

at him—the tallest poppy of the Israelite garden in England—as upon a certificate of British toleration. But, gentlemen, I cannot imitate the Ex-Lord Chief Justice of England and Viceroy of India. His law is a law unto him and my law is a law unto me. The example of his people, if I may say so without offence, is constantly mentioned in the Quran for the Muslim to avoid and take heed from. According to the Quran, after Moses (on whom be God's peace and blessing) had brought the Israelites safely out of Egypt and they had been delivered from the tyranny of pharaoh, they were asked to march on to the Promised Land. But they said, it is ruled by giants (Urdu) “We shall never be able to enter it so long as they are there” (Urdu) and they said to Moses “Go thou and thy God and fight them—we are the while sitting here.”

Well, gentlemen, that's not an example that I am asked to follow in the case of my holy land but to avoid. I cannot take that law. “It is ruled by powerful people.” “They are giants” “Go thou and thy God and fight and we rest here.” But I am not here to question the propriety of that example or that law. So far as I am concerned, the Quran is my law, giants or no giants and I shall fight when my God demands of me and shall not rest, nor ask him to fight the giants himself. And if I am to be hanged for it—for it is not Sec. 120-A. or B then, but 121, (waging war against the King, gentlemen,) I will still say that this is my law and that it is right and even my carcass hanging from the gibbet will I trust say the same. Do not therefore think of saving me, gentlemen, from transportation for life. But if you have a God and if you have a soul to save and if you have faith you will decide according to your conscience. You are not to consider whether you are servants of a particular company of the Greek firm of Ralli Brothers—or of Forbes, Forbes & Campbell—of the Customs office—you are to think nothing of that, but only of this that you are slaves and servants of God. Gentlemen, this is the one important matter so judge according to your conscience—it is not to save me but to save yourselves. When the judge had said “I cannot allow this” and wanted to stop

me, I said to him, "Then why not stop this farce and hang me out right." Well, he smiled and replied that it was not only a matter between him and me, but also between him and the public and I had replied that the public had already given their verdict both in this hall and also in the streets where they crowd in their thousands and cheer us going and coming and the oldwomen in spite of their Purdah come out—as my own mother had done since this trial—and make signs to us indicating that they want to take off our troubles—(Urdu). Well, gentlemen, my defence is before my God and my fellow-countrymen. Here we are now at the bar of this Court as prisoners and accused persons. But when before the judgment seat of God, the judge, the jury, the accused, all the co-accused, the P. P. and his assistant, the king himself—every body is assembled and God asks (Urdu) "Whose is dominion to-day"—what will be your answer? You will say. "Thine is the Power, the Glory.—Thine the kingdom, Thine the Dominion." You pray now "Thy Kingdom come". But, gentlemen, His Kingdom *has* come. God's Kingdom has come. God's Kingdom is here even to-day. It is not the kingdom of king George, but God's and you must decide on that basis and I must act on that assumption. That is why I say I will follow the law of king George so long as he does not force me to go against the law of my God. I have no personal malice against him. I have none even against the judge here. None against the Government. Not a single instance of that can be quoted from my public speeches. No, gentlemen, we must act from motives of public good not of private malice. Once the Prophet's son-in-law, cousin and successor, Hazerat Ali was enraged against a Jew who had insulted Islam, and the God of Islam and the Faith of Islam and Ali had that very instant brought him down to the ground and had jumped on top of him. The Jew thought that he was going to be killed and in sheer desperation spat on Ali's face. You have seen, have you not, a vessel full of milk on the fire and about to boil over and you have seen how it subsides the moment a little cold water is poured in. The Jew's spitting acted just in that manner and strangely enough the wrath of Ali subsided at once and

MOULANA MAHOMED ALI'S ADDRESS TO THE JURY.

he left the Jew and walked away. But the Jew was so astonished at this unexpected turn of events that he ran after Ali and caught hold of him and said "This is very strange. When I said a word you forced me down and would have killed me, and when I spat on your face in desperation you leave me." And Ali answered "You insulted God and I could have killed you, but when you spat on me I got enraged on my own account and personal ill-will could not go well with public duty. I could be an executioner for the sake of God but not a murderer for Ali." Gentlemen, we too bear the revered name of Ali and I bear also the name of another even greater than Ali. I will not be a party to the killing of even of a gnat for personal malice, *but* for the sake of my God I will kill all, I will not spare any one—I will slaughter my own brother, my dear mother, wife, children and all for the sake of God—so help me God." (And as he said this voice failed him, drops of tears rolled down his cheeks and he sat down completely overcome.)

TRIAL OF ALI BROTHERS & OTHERS.

DR. SAIFUDDIN KITHLEW'S ADDRESS TO THE JURY.

Gentlemen of the Jury,

Before I deal with the case itself I would like to place before you few things for your consideration. It is not an ordinary case in which you have been called upon to give your verdict. In ordinary cases you do not see a judge, or a crown Counsel, the Jurors, and the accused being photographed, nor all proceedings generally published broadcast in forms of booklets. In this case the Judge, the Counsel, and the accused have been photographed and I understand that soon after your discharge you will be requested to give a sitting. That in itself shows that it is regarded as a historic trial which will go down to posterity who would look upon your photographs with eyes of shame or glory. I hope in giving your verdict you will follow only dictates of your conscience and would yield to no extraneous pressure that might be brought to bear upon you to sell your conscience. I believe you are aware that the newspapers of all shades and opinions in India and in England in fact throughout the whole world are supplied with notes of these proceedings, and the eyes of the world are set on the result of this trial. The Government at great expense have collected or concocted materials for the case, called in witnesses from all over the country, secured most expensive legal advice and are squandering a good deal of public money on the police and military show to enhance the importance and the spectacular effect of this farce. They are also sending out press-notes and communiques containing half truths and mis-statements to the world to create an atmosphere wholly prejudicial to the interests of the accused.

I do not know if you have ever acted as Jurors or assessors before this, but let me make my position clear to you. I would not have addressed you as I am doing at the present moment. As Non-co-operator I am allowed to make a statement. And as the court would not record my statement I am taking this opportunity of saying to you that what I would have said to the court had my statement been recorded by it:

DR. RICHARDSON'S ADDRESS TO THE JURY

I want you to bear in mind that this case touches on the basic principles of British Administration in this country. It affects the religion of seven crores of Mussalmans on the one hand and the entire policy of the British Government towards its subject races, particularly in matter of faith on the other.

I hope therefore you will give the case your fullest consideration and acquit yourselves like men. But let me tell you at the same time that I hold myself absolutely indifferent as to the nature of your verdict.

Our case, as you know, is that we have in obedience to the Commandments of the Holy Quran, the Traditions of the Prophet and the dictates of good conscience, preached the precepts of our religion. My friend, the Public Prosecutor wants you to ignore the religious side of the question. The learned Judge seems inclined to the same view. In my opinion the Public Prosecutor has absolutely failed in his duty. He does not seem to have the proper conception of his duty. I therefore ask you not to be misled by him or the Judge. His duty, surely, is not to secure conviction but to secure justice. This is exactly what my learned friend has not done. Both Judge and the Counsel are wrong to say that religion has nothing to do with this case as it does not come within the scope of the Indian Penal Code. For their edification and enlightenment let me inform them through you, gentlemen, that there is such a thing as religion in the case, and the Indian Penal Code and all other codes, civil or Criminal, in this country are fundamentally based on the principle of religion and religious toleration. It would be an insult to the genius of Lord Macaulay and other Law Commissioners to say that they kept religious element out of the Indian Penal Code. The Penal Law of India as at present codified contains one chapter—chapter XV—solely devoted to offences relating to religion. The framers of the Code while introducing chapter XV say:—"The principle on which this chapter has been framed is a principle on which it would be desirable that all Governments should act, but from which the British

Government in India cannot depart without risking the dissolution of the society. It is this that every man should be suffered to profess his own religion, and that no man should be suffered to insult the religion of another". Further on they say:—"All these considerations apply with peculiar force to India. There is perhaps no country in which the Government has so much to apprehend from religious excitement among the people. The Christians are numerically a small minority of the population, and in possession of all the highest posts in the Government in the tribunals and in the army. Under their rule are placed millions of Mahomedans, of differing sects, but all strongly attached to the fundamental articles of Mahomedan creed, and tens of millions of Hindus strongly attached to doctrines and rites which Christians and Mahomedans join in reprobating. Such a state of things is pregnant with dangers which can only be averted by a firm adherence to the true principle of toleration. On those principles the British Government has hitherto acted with eminent judgement, and with no less eminent success; and on those principles we propose to frame this part of the Penal Code."—(note J.)

Add to this, gentlemen, the famous Proclamation of Queen Victoria which was made soon after the First War of Indian Independence commonly called the "Sepoy Mutiny," because it failed to achieve its immediate object. Add also the solemn Declarations successively made by the British Throne, the British ministers, the Viceroy and other high and responsible personages in a position to speak on behalf of England and the English nation. Thus it is abundantly clear that religion is very important element to be considered by the Jury, and the Jury is bound to take judicial notice of it. In fact this court has much to its chagrin already realised the importance and the necessity of religious toleration. In the case of the Shankracharya you have witnessed yourself how the court was obliged to come down from the high pedestal of prestige and recognise that a Sanyasi can command respect even in a British court of Law.



(Copy right.)

DR. KITCHLEW.

DR. KITCHLEY'S ADDRESS TO THE JURY.

Before going into the facts of the case let me take you into my confidence for a while so that you may be able to understand and appreciate the position better. Now let me inform you, gentlemen, that I am a Hindu by race and a Mussalman by religion. I claim to inherit both Hindu and Muslim civilizations—the one through blood and heredity and the other by reasons of faith and adoption. I am proud of my race and religion. As a nationalist I love India with the intensity of love that only a patriotic heart can feel and I am ready to lay at the feet of the Motherland, to do all that is best in me to make her free, prosperous and happy. As a Mussalman I am bound to obey the commandments of my religion. The defence of Khilafat, the holy places of Islam, and the Jazirat-ul-Arab, is a religious duty the neglect of which drives one outside the pale of Islam. I am, therefore religiously bound to do all in my power to keep in tact the integrity of Khilafat and the holy places of Islam.

My religion forbids me to co-operate with the enemies of Islam. British Government has proved treacherous and false to the cause of Islam. Her Ministers have shown racial and religious prejudices towards Turkey and the Mussalmans by preferring opportunism to honesty of purpose. On account of the shameful make-shifts of her ministers and statesmen, I regard British Government as enemy of my faith. I, therefore, consider it a sin to cooperate with her until she has made amends for her misdeeds.

As a non-co-operator I can be either violent or non-violent according to the laws of Shariat. I am entitled to use force when I have the power to do so; or stay where I am and practise non-violent non-co-operation. The use of physical force for me in the present circumstances is out of the question. Hijrat or migration is impracticable for seventy millions of Mussalmans. Non-violent non-co-operation therefore is the only thing that a Mussalman in this country can practise to satisfy the dictates of his conscience and the commandments of God. I am, therefore, a non-violent non-co-operator just as the Prophet of Islam was during his life at Mecca.

TRIAL OF ALI BROTHERS & OTHERS.

I am a non-co-operator also because I believe that a government which has deliberately brought about the moral, economic and political degradation of my country, and which has been guilty of the monstrous inhumanities of the Jallianwala Bagh has no right to demand my co-operation.

As a non-co-operator I ask for no justice. I expect none from this Government. I have therefore engaged no counsel, asked no questions from witnesses, produced no defence and advanced no arguments excepting one solitary statement which I am allowed to make by the rules of non-co-operation.

For I believe that this so-called trial is a mere farce stage-managed by an unscrupulous Beurocracy to throw dust into the eyes of the people outside India.

The prosecutions have been conceived *ab-initio* in a spirit of comouflage and injustice. The Viceroy, the Government of India and the Government of Bombay, have by means of declarations, communiques and the statements in the press zealously tried to poison the minds of the people both in India and in England by creating an atmosphere prejudicial to the interests of the accused persons. Among other things a lying statement has been published in the notification in Sind—which has also been attached to the record of this case—to the effect that the Jagad Guru Shankaracharya of the Saradha Peeth, accused in the case, is only a pretender and not the rightful claimant of that title. This is surely a wanton insult offered not only to the person of His Holiness the Jagad Guru but to the whole Hindu community.

The proceedings in the Lower court were carried on in most arbitrary manner without the least regard for law and procedure—They can be divided into three parts :—

DR. KITCHLEW'S ADDRESS TO THE JURY.

In the first part.—

1. The District Magistrate who himself appeared as witness constantly attended the court and not only influenced the committing Magistrate by his presence but on one occasion even interfered in the proceedings by ordering the Police officer to make Moulana Mahomed Ali forcibly sit down while the latter was addressing the court on some acts of its high-handedness.
2. The accused were purposely kept in the dark as to the true nature of the case and all the evidence against them.
3. The Magistrate refused to take all the evidence and even passed an order stating that the evidence of some witnesses might be taken up at the Sessions, thus making the fact of the committment a foregone conclusion.
4. The Public Prosecutor was allowed to put leading questions and even to cross-examine his own witnesses.
5. The Magistrate though bound to examine the accused, refused to do so particularly in the case of the Jagad Guru Shankaracharya.
6. Excepting Moulana Mahomed Ali, the statements of the other accused explaining the circumstances of the case were not recorded.
7. The charge was not read out and explained to the accused who did not understand English.
8. The Magistrate called on the Public Prosecutor to argue his case while he never asked the accused to do so in spite of his promise with Moulana Mahomed Ali.
9. The Magistrate had written the committing order at home long before the statements of the accused were recorded or arguments heard. It was read by him soon after the

TRIAL OF ALL BROTHERS & OTHERS.

Public Prosecutor had finished his arguments. The charge was also written beforehand.

10. The complaint, the charge, and the order of committment are ambiguous and misleading.

This is for the first part,

In the second part,—

1. Full twenty-four hours after the committment order when the magistrate had become *functus officio*—case was recalled in the Lower court.
2. The Magistrate had done this *suo-moto* without being asked to do so either by the High Court or any of the parties concerned.
3. The charges were read out in Urdu but not explained to the accused who were asked to put in a list of the defence witnesses.
4. These vitiating effects were brought to the notice of the court to show the farcical nature of the proceedings but were not recorded by it.

Thus ended the second part. The third part was begun inside the jail in the following manner.—

1. The Magistrate took further evidence on behalf of the prosecution without being asked to do so.
2. The accused were not asked if they would produce any evidence to meet the evidence thus produced by the prosecution.
3. The evidence was in no sense supplementary or incidental but of vital importance to the case. It was the same evidence which the Magistrate had at first by his order refused to

DR. KITCHLEW'S ADDRESS TO THE JURY.

take. This brought to end the proceedings in the Lower Court.

I have stated these facts not with a view to defend myself or take advantage of the illegal and vitiating circumstances, but just to draw attention to the farcical nature of the whole case. As for myself I am indifferent to the result of this case. In fact I invite imprisonment.

The story in the Sessions court was a mere repetition of what took place in the Lower Court, though it was done here on a more elaborate scale. In this court too the Jagad Guru Shankracharya was insulted, the statements of the accused were not recorded, the chairs were removed and the accused were made to sit on the floor. The accused were even threatened to be prosecuted for contempt of the Court. The behaviour of the Court on the whole was that of a prosecutor and not of judge. The court even arrogated to itself the original jurisdiction which is denied to it by law. The Sessions Court can ordinarily amend or alter or add to the charge when such amendment, alteration or addition is trivial and does not prejudice the interests of the accused and is supported by the evidence on the file. But the judge in the present case changed the whole nature of the charge by adding a new Section to it and by interchanging Sections in the charge-sheet. Let me explain to you what I really mean. The charge as framed by the lower Court stated that the so-called conspiracy started in 1921, but the Court of Sessions, as you know, changed 1921 into 1920. Thus full one year was added to the duration of the conspiracy on the mere presumption that the prosecution would produce a witness who would give evidence to that effect. This is simply preposterous. Such assumption of power by the court is not only un-warranted but absolutely illegal and vitiates the whole case.

The charge against me is that I spoke in support of the resolution of the Khilafat Conference held at Karachi in July 1921. I want you to bear in mind the wording of the resolution. It runs thus.—

TRIAL OF ALI BROTHERS & OTHERS.

"This meeting of the All-India Khilafat Conference offers its hearty congratulations to Ghazi Mustafa Kamal Pasha and the Government of Angora on their brilliant victories and their heroic efforts for the safety and preservation of the Islamic Empire, and prays that they may similarly succeed at an early date in expelling alien forces from every corner of the Turkish territory"

"This meeting further emphatically declares that it is strictly forbidden for every Muslim according to Islamic Shariat to serve, to enlist in the army, or to raise recruits, and it is the duty incumbent on every Muslim and particularly on the Ulema to bring the religious commandments on this subject home to every Mussalman in the British Indian Army.

"This meeting further declares that if British Government directly or indirectly, secretly or openly takes any hostile action against the Government of Angora, the Mussalman of India will be obliged to take to civil disobedience in concert with the Congress; and further to make a declaration of Indian Independence and Republic at the next Congress at Ahmedabad."

This is the resolution which is the crux of this trial. I assure you, gentlemen, that I support every word of it now as I supported every word of it even at the Conference. I want you to read it and read it carefully and then tell me what portion of it appears to you to be objectionable. A similar resolution was passed at Gokak where we had received a telegram from London that the British had been directly or indirectly helping the Greeks against Angora. My friend the Public Prosecutor wants you to realise the importance of this resolution and I make a present of it to him and through him the Government that he has the misfortune to represent in this Court. Yes, gentlemen, I attach and I want you to attach a very great importance to this resolution for this is an expression of my religious opinion which I am commanded by Allah to convey to the Mussalmans in the Army and if this expression of opinion makes me liable to be punished under

DR. KITCHLEW'S ADDRESS TO THE JURY.

any section of the Indian Penal Code., I am willing to undergo that punishment. This resolution, you will see, declares that it is unlawful for a Mussalman to serve in the British Army and calls upon the Ulama and others to convey the message to the soldiers generally. The Congress, the Khilafat Committee, the Jamiat-ul-Ulema, the Muslim League and other religious and political organisations in the country had passed similar resolutions long before the Karachi Conference. There is nothing new in this resolution. It is only an expression of the same principle in terms of Islam. It is not a statement, rumour or report calling upon the soldiers to disregard or fail in their duty as such nor is it an abetment of meeting or an attempt to seduce soldiers from their duty. Therefore Sections 131 and 505 of the Indian Penal Code have no application whatsoever. The soldiers are required to know the commandments of their God, but they are in no sense called upon to neglect their duty. It declares as unlawful for them to serve in the army, when such service makes them do any act against the Law of Shariat; it is therefore conditional. It merely tantamounts to a conscientious objection, the whole thing is conditional, which is to take place under given circumstances. The Muslim soldiers, if the circumstances do not permit their service in the army, are warned on religious grounds to secure their discharge from the Army. The discharge can be secured by means of perfectly legal methods. It does not necessarily mean that in order to secure their discharge the soldiers must do illegal acts. They can acquaint their superior officers of their religious obligations, they can resign or apply to be struck off the rolls or buy their discharge and use many other ways in getting out of the army and that only when they are called upon to do an act against their religion. I want you to particularly note that in the same resolution the disobedience of law is not to be resorted to until the "All India Khilafat Committee resolves to that effect in consultation with the Indian National Congress." This is a very important point having a direct bearing on the whole case and I would therefore put it to you in another way:—

The charge against me is that I have asked the troops to swerve from their duty. Does this resolution say that I have directly or indirectly done any thing of this sort ? I tell the sepoy that it is "haram" for him to serve in the British Army. I admit that it implies that if a sepoy according to his conscience believes in the commandments he would resign. In pursuance of the Congress resolution we have said similar things to pleaders. We have never compelled any pleader nor have we resolved to compel any sepoy. The natural consequence of this resolution is not disobedience of law or breaking of allegiance or neglect of duty. The first step would be to secure discharge. We do not say 'Do it by illegal means'. If I am liberated I shall tell the sepoys to secure discharge by legal means. This resolution speaks of civil disobedience in future. Up to now we have not resolved about putting civil disobedience into practice. May my countrymen have strength enough to adopt civil disobedience !

I now speak further with regard to conspiracy to seduce soldiers. Conspiracy requires agreement between two or more persons to do an illegal act. It also requires definite and tangible proof of that agreement. Now I ask you as conscientious gentlemen, in the presence of God to say—is there any evidence on the file of an agreement between any two of us to do any illegal act—a mere presumption would not do. The Government ought to be shamed of basing their claims on mere presumptions. I am prepared to admit that it is not necessary for all the conspirators to meet and arrive at an agreement to do an illegal act, but it is necessary for the prosecution to prove that any two at any one time, at any one place, agreed to go to the soldiers calling upon them to break their allegiance or disregard or neglect their duty. The Public Prosecutor has tried to muddle your brain with several technicalities, but I want you to pay no heed to the technicalities of the case, for you are here to decide on broad open facts, whether there has been any overt act on the part of the accused which can bring them within the clutches of law. The prosecution he has made frantic efforts to prove an

Dr. KITCHLEW'S ADDRESS TO THE JURY.

overt act. Certain leaflets have been brought on the file to prove an overt act. Officers in the army have come forward as witnesses to depose that attempts were made to seduce the soldiers. These leaflets will show to you the hypocrisy and the sheer absurdity of the whole case.

Now, gentlemen, you can see the legality for yourself and I want you also to carefully note the envelopes and the handwriting thereon. The envelopes containing the leaflets bear stamp-marks of different stations in the United Provinces for instance—Moradabad, Kashi etc., but they are all of the same colour, the same quality, of the same texture and size and even the same handwriting—this much about the envelopes. Now as to the language of the leaflets you will see that it is absolutely incorrect. Verses from the Holy Quran are not only wrongly quoted but also tampered with. The leaflets bear no names—no name either of the printer or publisher; they appear to have been printed at some “Shauq” press in Lahore and there is no evidence to prove this fact. They further seem to have been published by the “General Secretary of the Publishing House, Delhi”—no evidence is produced either from Lahore, Delhi or the United Provinces to prove the genuineness of the documents in question or even the existence of such wonderful institutions and persons as given in the leaflets, and by such shabby tricks and contemptible artifices the Bureaucracy in India wants to prove the charge against us of attempting to seduce Muslim soldiers from their duty. As to the conspiracy itself, as I have just explained to you there is not a tittle of evidence on the file to show that any two or more accused at any time in their life conspired or came to an agreement to do any illegal act. I want you also to remember that the language of the resolution or of the speeches made are not the subject of the charge, therefore an illegal act on the part of the accused outside the conference pandal, must be proved before the charge under these sections can be established.

I am sorry, gentlemen, that none of you is a Mussalman, you are either Christians or Hindus. It is difficult for you to understand the na-

TRIAL OF ALI BROTHERS & OTHERS.

ture of this case ; for your convenience, I want you to compare the verses given in the leaflets with the original text given in the Holy Quran which I am placing before you. I am glad you see the difference between the two. Now this will clearly show that none of the accused could have made such glaring mistakes nor such a responsible body as the Khilafat Committee could do such a thing as this. Probably, you know that for a Mussalman it is considered to be a great sin to alter, add or amend a simple alphabet, syllable or a jot of a Quranic verse. Besides the Khilafat Committee would have published leaflets over the signatures of the Secretaries or some responsible members just as they passed the resolution openly. It is said that the resolution was passed at a Subjects Committee Meeting before it was finally adopted by the Conference, but the prosecution has not produced a single eye witness to show the presence of all the accused at the Subjects Committee Meeting. Only one witness who deposes that he recognised Moulana Thoukat Ali's voice at the Subjects Committee Meeting. Now at the Subjects Committee Meeting it is not necessary that all members should attend or all members should vote. It need not be unanimous resolution of the members present ; therefore it is no evidence to say that the mere presence of one at the Subjects Committee Meeting is enough to prove his connection with the conspiracy.

I would like to call your attention to the "Fatwa" of the Ulema. Probably you know that the 'Jamiat-ul-Ulema' is a distinct body, with a separate organisation of its own and it has nothing to do with the 'Khilafat Committee' as such. The Fatwa is signed by 500 Ulema and is published with the authority of the Secretary of Jamiat-ul-Ulema. This has been put in simply to poison the mind of the Judge and the Jury otherwise it has no bearing on the case and is not a subject of the charge. The law is very clear on all the points to which I have drawn your attention, but I do not want to argue by quoting authorities or citing cases. I am just attempting to show that the case, one-sided as it is, is a mere farce and a travesty of justice and that no Indian can expect fair play in Courts established under a system of Government, which is not only

DR. KITCHLEW'S ADDRESS TO THE JURY.

irresponsible and wicked but is totally opposed to the moral, material and political interests of the country. The motive of the Government is to cause harm to the Khilafat, Swaraj and the Hindu-Muslim unity and present case is a direct attempt on the part of the Bureaucracy to give a stunning blow to the rising aspirations of the country.

Gentlemen, I do not wish to say anything about Islamic Law on the question. My friends Moulana Mahomed Ali, Moulana Hussain Ahmed Saheb have both dealt with this at length and if you care to study their statements you will come to know the true nature of the religious aspect of the question. Moulana Mahomed Ali is a learned man. Moulana Hussain Ahmed is well versed in Islamic law. Shri Shankaracharya is being adored by crores of Hindus. Pir Mujaddid has lakhs of followers. Moulana Nisar Ahmed Saheb claims a large following in the United Provinces and Moulana Shoukat Ali you can see for yourself what he is, he is a host in himself. And for myself, well. I am an old jail bird and a 'great friend,' of Sir Michael O'Dwyer the ex-satrap of Punjab who is still crying himself hoarse about me in the distant land of England.

I was deported in 1919 from my house at Amritsar to the Dharm-sala hills by the 'Strong man of the Punjab.' On my deportation some of my countrymen were shot down in cold blood by the long arms of the Bureaucracy for having dared to claim my restoration. Some of my country men under circumstances of grave provocation thus caused, lost their self-control and in turn killed a few Englishmen and burnt a few buildings in Amritsar. For this act, a very wrong act indeed, they were condemned by their own citizens at the Jallianwalla Bagh on the famous 13th of April 1919. Just as the people of Amritsar assembled in their thousands and were in the act of condemning the provocation caused by the bureaucrats on the one hand and the senseless deeds of their own countrymen on the other they were fired upon by the orders of General Dyer, the renowned warrior of the Bureaucracy and left dead and wounded without medical aid to meet their glorious death as martyrs in the cause of their country.

TRIAL OF ALI BROTHERS & OTHERS.

Out of the fullness of heart and love which the people of Amritsar bore me for the humble services I had rendered in the cause of Satyagraha, they had in my absence elected me President of the memorable meeting of the 13th at Jallianwāla Bagh and had put my photograph in the Chair. This was one of the gravest offences I had been guilty of in the eyes of the Punjab Bureaucracy. I have a long list of offences against me. I give you just a few for I cannot remember all.

I was among the first in the Punjab to take the vow of Satyagraha. I had also formed a Satyagraha Association in Amritsar and organized agitation throughout the Punjab against the Rowllat legislation—I had done all in my power to expose the misrule of the Punjab Government, particularly its boastful Governor of Martial law fame—I had also invited the Congress to hold its session at Amritsar to hear the stories of atrocious misrule of the old O'Dwyerism regime—thus you see, gentlemen, I was rightly regarded a dangerous man by the Government of the Punjab, therefore after the cold blooded murder of the Jallianwāla Bagh they could not find a better man to be placed at the head of conspiracy which was alleged to have been started at Amritsar with the distinct object to overthrow the British rule in India. This was a most convenient thing concocted by the fertile brain of Sir Michael and his colleagues to hide the sins of their own acts of commission and omission. That was a movement, gentlemen, inaugurated by the Bureaucrats of India, particularly the Punjab to thwart the objects of the reform scheme. This time it is a conspiracy on the part of the Government of India with the Bombay Government as its tool to defeat the object of the Khilafat, Swaraj and Hindu-Mahomedan unity. Therefore I request you to be careful for the sake of your own salvation before you give your verdict in this case. Your judgment against me will be against my religion, my country, and the reason of this agitation for which I am hauled up in Court is that I as an Indians claim to live my own life with absolute freedom of thought, of speech, of action and of conscience.

DR. KITCHLEW'S ADDRESS TO THE JURY.

I am absolutely indifferent as to your verdict and I request the Judge to give me the full penalty of the law by transporting me for life and not to condemn me to a lesser term of imprisonment.

I am an agitator—I frankly admit. I am also a revolutionary—for the movement of non-violent non-co-operation is nothing if not a revolutionary movement. In the method of agitation I follow my renowned leader Mahatma Gandhi who is at once a saint, a seer and a practical man. I am also the founder of the Swaraj Ashram at Amritsar and the Government is very anxious to know the absorbing mystery of its inner working. I have dedicated my life to the Ashram and have taken a vow not to do anything for personal gain till the repetition of the Punjab wrong is made impossible, Khilafat wrongs are righted, and India gains Swaraj—its complete liberty of thought, action, and conscience.

I have no hatred of foreign race, religion or country but I yield to none in my love and loyalty to my God and my country.

I thank you gentlemen, for giving me an opportunity explaining myself fully and I also thank you for giving me a patient hearing. I also thank the judge and the Crown Counsel.

I have no ill will against you or against any one personally. In the end I appeal to all to remain non-violent till the end and follow Mahatma Gandhi till we have gained what we are fighting for.

—: o :—

TRIAL OF ALI BROTHERS & OTHERS.

OM.

**ADDRESS TO THE JURY BY HIS HOLINESS SWAMI SHRI
BHARATI KRISHNA TEERTHJI JAGADGURU SHANKAR-
ACHARYA OF SHRI SHARADA PEETH.**

—: 0 :—

CAMP, KARACHI CENTRAL JAIL.

1. THE FACTS.

We are in Holy Orders and recognise only one law the law of Dharma (Truth, Justice and Duty)—the law of life—embracing, sustaining and unifying (or at least, co-ordinating and harmonising) all the activities of life. Owing to manifold and multifarious reasons connected with our temperamental predilections, our rules of Sanyas and the methods and the character of the existing courts of law in the country, we cannot offer any sort of defence in the usual manner, but, in view of the momentous principles involved in this case, we are unavoidably—though reluctantly—compelled to make a lengthy statement of all the facts relating to our case, so as to elucidate and clarify all the points at issue.

It was late in the afternoon of Friday the 16th September 1921 that the D. S. P. of Kaira (Gujrat), attended by a huge array of (wholly unnecessary) armed men, approached us at our (old) head quarters in Dakor (Gujrat) to inform us that a certain official of the C. I. D. Police Head quarters at Poona had a warrant from the District Magistrate of Karachi for our immediate arrest on a charge, amongst others, of conspiring with Moulana Mahomed Ali of Rampur to seduce soldiers from their allegiance and their duty to the Queen? As we had never yet had occasion to speak to soldiers or even about them at any place (including Karachi), the charge was naturally incomprehensible to us except on the one supposition that a speech of an actionable character under section 131, 505, 120B, 105 and 114 had been fabricated and ascribed to us by some obviously inventive Police brain at Karachi. As however, this was not a matter to be discussed with or even explained to policemen with an arrest warrant, we said nought about it.

SHRI SHANKARACHARYA'S ADDRESS TO THE JURY,

to them. But the purely *religious* fact was merely pointed out to them that we were just then nearing the very end of our Chaturasya Vrata and that, Poornima having come in already, we needed but a few hours more for completing our Vishwaroop Yatra ceremony. The D. S. P. —who talked in a courteous gentlemanly and even deferential manner—expressed his appreciation of the situation and his regret that, as he had received peremptory instructions, he was absolutely powerless and helpless in the matter. And so, (even though there was no search warrant, all our correspondence and other papers—personal as well as of the Gadi—and extending over a period of nearly 15 years having all been rummaged, bundled up pell-mell (on account of the hurry) into a long wooden box of ours and sealed (without even an inventory of the papers being made), we were brought away from Dakor railway station to Drigh Road which we reached on the evening of the 18th September and whence we were duly brought over to Karachi Central Jail.

In passing we may just mention that we were informed (by our so-called “Captors”) at Dakor that we were being taken far out of the Bombay Presidency into Northern India and so on. Why, in the face of the Karachi District Magistrate’s plain warrant and our actual catching of a train bound not for Delhi, but for Ahmedabad *enroute* to Karachi, this wholly purposeless and incredible lie was told to us and repeated all through, we cannot understand except on Mr. Mahomed Ali’s interesting, fascinating and felicitously worded theory about the “Sacred traditions of Crown Prosecutions in this country” wherein lies are loved not for utilitarian purposes but *for their own sake!*

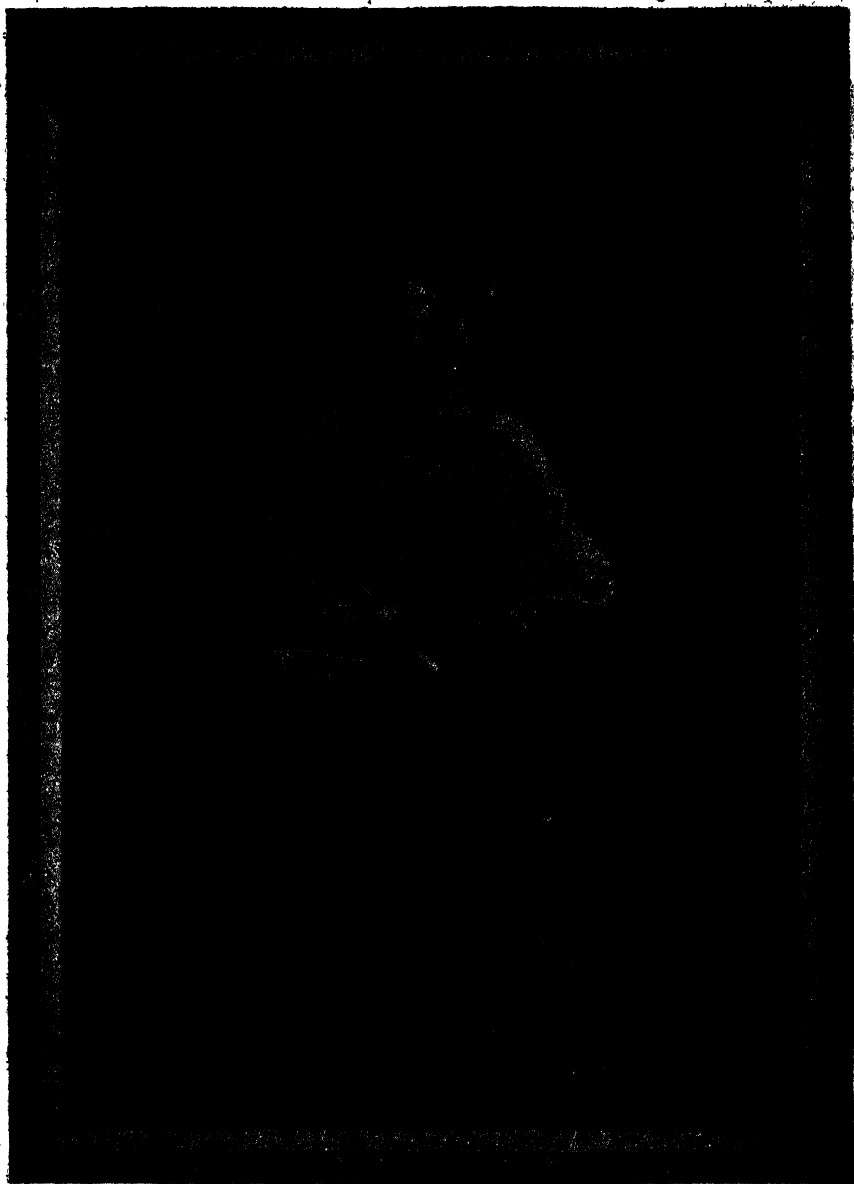
To resume the thread of our narrative. After our arrival here, we learnt, from the Anglo Indian Newspapers (the only ones which until our committment to the sessions, the partisan bureaucracy allowed us in the jail), that the charge against us was *apropos* of our support of a Resolution of the All-India Khilafat Conference in July last at Karachi. Not knowing even a single syllable of Urdu, Sindhi and Persian wherein (barring our own two speeches and a few words of Mrs. Sarojini Naidu’s) the entire proceedings of that Conference had been con-

TRIAL OF ALI BROTHERS & OTHERS

ducted we had not even heard that there was any Resolution of that Conference relating to Soldiers in the Army, and so, these newspapers did not make the position any the less mysterious or more comprehensible to us than before.

It therefore behoves us to state, at this juncture what exactly we did say and do at the Conference. First there was, on the opening day, a preliminary speech of a benedictory proper him character wherein we explained that the Lord Shri Krishna's teaching of Swa-Dharma (one's own duty) was not merely for Arjun or the Pandavas or even the Hindus, but for all Sentient Creation as such; that Manu and other Spiritual Law-givers of the Hindus had expressly defined Swa-Dharmas that which existed not in hostility to but alongside of and in sympathetic and cordial amity with Para-Dharmas (other duties) that the Khilafat was not a temporal but a Spiritual affair entrusted by the Holy Founder of Islam into the hands of True Muslims; that any individual who deliberately refused to obey the Prophet Mahomed might very plausibly justify himself as a freethinker, a rationalist, a scientific agnostic and so forth but could not, under such circumstances, call himself a Mahomedan and, if born a Mahomedan, could only be regarded as a renegade and an apostate from Mahomed's religion; and that we Hindus, who believed in the broad-minded and universal conception of "Swa-Dharma" enjoined on us by the Lord Shri Krishna, Manu etc., and endorsed by England too in Nelson's famous device "England expects everyman to do his Duty"—we had morally no option but to sympathise with and help our Muslim brethren in their almost superhuman endeavours on behalf of their beloved Khilafat against odds tremendous and handicaps innumerable.

Owing to the difficulty caused by the great distance at which, a few miles away out of Karachi City, our quarters had been arranged for us for the sake of the conveniences and detachment preferred by us for our accomodation, worship and meditation in our orthodox Hindu style, it was about 11 A. M. the next day when we were taken to the meeting of the Subjects Committee just as it was about to close.



(Copy right.)

SHRI SHANKAR ACHARAYA.

Kohinoor Printing Works.

and thence to the open session of the Conference, wherein Mrs. Sarojini Naidu of Hyderabad (Deccan) began her Urdu speech with a short English preface, expressed her sympathy as a Hindu with the endeavours of Islam towards the safeguarding of the Sacred Shrines of Islam as enjoined by the Prophet Mahomed and appealed to us, in our pontifical capacity of Jagad Guru Shankaracharya of the Shri Sharada Peeth, to explain the Hindu Ecclesiastical position as regards the sacredness of Mecca and other Holy places of Islam. And accordingly Dr. Saifuddin Kitchlew and others desired of us and we promised them another speech on the subject in the night sitting and we returned to our quarters immediately (that is about 2 P. M.) for attending to some other pressing engagement we had there.

Owing to the afore-described handicap of distance that separated our quarters from the Conference Pandal, it was nearly 11 P. M. when we arrived there again to find that the proceedings had commenced already and had gone on for some time and that Dr. Kitchlew was on his feet. On his resuming his seat near us, he reminded us of our promised speech and, while another speaker was addressing the Conference Dr. Kitchlew had the usual arrangement made for a chair on the platform for us to speak seated from, as required by the rules of our Order. And then Dr. Kitchlew desired us to speak on Hindu-Muslim unity and the Khilafat and to conclude with a few words on the Angora Government.

Responding to Mrs. Sarojini Naidu's appeal to us of the afternoon, we repeated our earlier general pronouncement that, as a believer in the doctrine of Swa-Dharma for all, every Hindu should necessarily sympathise with the Khilafat cause and we then added that, according to the detailed account of the Final Deluge contained in the Bhavishya Puran and other Sacred Scriptures of Hinduism, the Lord would take a Colossal form, stand aloft with his feet on Benares and Mecca (the only two places which would survive the Deluge), gather together there all the Faithful of all Faiths, times and climes and garner them up thence to His own bosom, thus showing that, for a Sanatani

TRIAL OF ALI BROTHERS & OTHERS.

Hindu who believed in the Puranas; Mecca was—not merely for general reasons of broad-minded religious sympathy as expressed by Mrs. Sarojini Naidu but, in the light of this positive and categorical statement on the subject—a sacred place like Benares. And on the same authority we mentioned, too, that Adi Shri 1108 Shankaracharya (from whom we, the present Jagadgurus derive our Spiritual descent and authority and on whose Pontifical throne we sit) undertook a pilgrimage to Mecca in the face of enormous difficulties caused by the ignorant and self-sufficient bigotry of the fanatics of His day, and that he had therefore to use His Supernatural Powers, assume the shape of a parrot, fly to Mecca (which, be it noted, was yet to become the birth-place of Mahomed, the Last of the Prophets, but had already been singled out for the purpose) and performed Puja—(worship) there with the Sacred Tulsi and the Holy Water of the Ganges from Benares.

We thus explained that Hindu-Muslim unity was really to be based on a Spiritual foundation. We instanced the infinite and kaleidoscopic permutations and combinations amongst the Powers of Europe based on no ethical principles whatsoever but merely paying homage to their fetish (Balance of Power). And we also cited the example of the late Balkan War wherein Servia, Montenegro, Bulgaria and Greece formed an unholy political combination, not because they positively loved one another but solely because of their negative bond of common hatred towards Turkey and wherein after they had conquered Adrianople and while Bulgaria and Greece were fighting with each over the booty, the Turks walked quietly back into Adrianople, practically without having to fire a shot therefor; and we condemned all such political combinations traceable to negative causes and insisted that—Hindu-Muslim unity should stand and could last, not on the negative political basis of hatred towards Britain but on the positive Spiritual foundation of abiding mutual *love* without any sort of reference whatsoever to Britain (or any other third party) to account therefor.

Having thus explained the Hindu Spiritual principle underlying

SHRI SHANKARACHARYA'S ADDRESS TO THE JURY.

the Ecclesiastical support which we were giving to the Khilafat, we alluded concisely to the trials and tribulations endured by the Angora Government as the only *Temporal* Power having both the will and the power to save the Khilafat. And as the real Government of Turkey as against the "self styled Turkish Government at Constantinople" (a fact which, we see, even the Greek Prime Minister Gounaris has during the last few days, openly acknowledged). And we therefore spoke for Angora the sympathy and support of all Godly, nay of all humane persons (without distinction of race or creed.)

In answer to the recently put forward and edifying pseudo-ethical objections of Mr. Lloyd George and other such quick change-artists on the score of the Khilafat dating back from the Mediaeval ages only and not from times immemorial, we pointed out that even the most ancient of landed proprietorships in England to-day dated back to the conquest of England by Robert the Devil's offspring William the Conqueror, in 1066 A. D. and the distribution of most of the conquered land by him amongst his camp-followers, or at the most to the depredations and ravages committed in England by those brigands and pirates Hengist and Horsa and Co., and that Mr. Lloyd George would—logically and morally—be called upon to get Englishmen to completely evacuate not merely India but even England and retire to Jutland, Denmark, Saxony etc. before he could expect the Khilafat to recognise and follow his opportunist and specious doctrine of Ancient Historic Origins. Parenthetically, we would state that Rollo or Rolf or Robert the founder of the Duchy of Normandy rejected the surnames "the good" "the great" 'the magnificent' etc. and called himself Rolf the Devil. Hence William the Conqueror was literally the offspring of Robert the Devil. And we concluded with a still briefer reference to Swaraj which we said should not be Hindu, Muslim or any other Raj, but simply a Dharmic Raj conducted according to the basic principles of Justice and Righteousness, which alone were the *sine qua non* and the guarantees of stability and unimpaired progress. Such a Swaraj alone was worth striving for and, like the Devas

of old who were not elated by the gems or frightened by the poison, which they obtained in the course of their churning of the ocean for the sake of the celestial Amrit (Ambrosia), we too should push on unelated by concessions and undeterred by repression, until we had churned out of the agitated ocean of Indian politics the Amrita of genuine Swaraj.

In connection with Swaraj we mentioned that the Nagpur Congress of 1920 had declared for Swaraj but had deliberately omitted to state whether the Swaraj it aspired to was to be inside or outside the Empire because we had felt that, if we could continue as self-respecting individuals within it we would not go out of it for the mere pleasure thereof or owing to hatred of Britain but, if Britain was foolish enough to insist on so behaving as to make our connection with her absolutely in-compatible with our self-respect as Indians and even as human beings, then the Government would, by its own suicidal follies compel the Congress to prefer "absolute independence out of sheer and irresistible necessity. We may state that in the memorandum on the Indians, status in the Dominions prepared by Lord Chelmsford's Government and recently published by Lord Reading's, Lord Chelmsford too says "India sincerely wishes to remain within the Empire but only as an equal partner. Her own self-respect requires that she shall not accept any terms of inferiority

Throughout these discourses, we followed our invariable practice of pleading for the rigorously unbiassed and dispassionate consideration of all questions solely from the view-point of Dharma and we never uttered a single syllable for, against or about the Army or the Navy. And thus it was that the charges against us were absolutely incomprehensible to us. We, therefore, naturally wondered by what mysterious process of reasoning, logical or psychological, our speeches at Karachi had got so inextricably intertwined with the Army and the Navy as to bring about our prosecution on a charge of attempting and conspiring to incite soldiers to mutiny or to fail in their "allegiance" or "duty".

Once indeed, in mid-May last at Ajmere, we came very near a serious affair of this sort wherein, owing to the ill-advised attempt of the Magistracy and the Police to arrest the officiating priest of the local Mosque and a disciple of his, *at the Mosque and during the Ramzan* and wherein tens of thousands of armed, infuriated men surrounded the Mosque to prevent it. And we talked matters over with Mr. Gourishankar Bhargav of Ajmere (at that time a Government gagged person) Dr. Mahomed Ali Shah of Aligarh and other friends, at the earnest solicitations of the police; and we had the people pacified by them and thus helped in our own humble way, to avert the threatened calamity which, we understood, was about to result in a tremendous collision between the Ajmere people and the Nazirabad military forces! Surely this successful attempt at the pacification of an excited people could not account for the present prosecution against us.

11 THE PRINCIPLES.

The only thing which, as a matter of fact, we have ever done and shall ever do in all our public lectures and our private discourses, has been to impress, on our hearers, the clamant and paramount necessity for the *complete* spiritualisation of the *daily* life in *all* its activities. If it be a crime to say (as Nelson did) that everyman should do his Dharma (Duty), we must certainly plead absolutely guilty to that charge and pride ourselves too thereupon. In fact, this is our only function as Jagadguru Shankaracharya, not merely to *expect* people (as England, according to Nelson, does) to do their *Duty*, but also to incite them thereto. All people, even the most worldly, have this elementary human right of preaching Truth and Duty as the predominant factors in all life; but a Sanyasi who has renounced the world, who owes no allegiance to anything worldly, who is bound only by and to Dharma, who has to practise it during all the waking hours of his life and who, particularly as a Jagadguru, has no other function than the preaching of Dharma to all according to their "Adhikara"—such an individual has not merely the right, privilege or prerogative but the *binding duty*

TRIAL OF ALI BROTHERS & OTHERS.

and unshirkable responsibility of incessantly preaching Dharma as his only task in life. And as, according to the dictates of the Hindu, Islamic, Hebrew, Christian, Parsi and other religions, Dharma is as illimitable in its jurisdiction as God Himself, we have the Duty of preaching Dharma to the world in all the aspects of life (not excluding even the "secular.") If and when earnest and enquiring souls seek our spiritual guidance on a political, social, industrial, economic or other so-called "temporal" question, we can no more shirk our Duty of honestly and conscientiously enunciating, interpreting, preaching, adumbrating and *even inciting to the practice of* the Dharma on such a question, than we can with regard to purely ceremonial matters relating to prayers, worship, marriage, funeral obsequies and so forth. An Acharya has, in fact been defined in our Sacred Literature as one whose only business it is to practise his own personal and individual Dharma and, by every means in his power, *make* others practise theirs.

From this point of view, no department of life is too sacrosanct to escape *our* jurisdiction and we are therefore called upon to shoulder the (often unpleasant) task of preaching the Raj Dharma and the Praja-Dharma. Unfortunately, to many people all the wide world over, fulsome flattery is more acceptable than wholesome advice; and if, therefore, in the conscientious performance of our Dharma of Dharmopadesh without any regard to personalities, races and feelings but solely as our unshirkable religious Duty, we give offence to the Raj or the Praja or even both and are called upon to bear the consequences thereof in the shape of personal suffering, we ought to and do take it all cheerfully *as part of the game*!

Unswerving allegiance to Dharma and Truth has always—in sacred as well in profane history—entailed enormous suffering and claimed terrible sacrifices. The true man of God has always had to suffer indescribable torture, not merely at the hands of godless worldly officials but even alas! at those of really godless official "Ecclesiastics!" Oh! what hideous crimes and fell atrocities have not been perpetrated

SHRI SHANKARACHARYA'S ADDRESS TO THE JURY.

against really inoffensive people in the sacred names of Peace and Order on the one hand and of God and Religion on the other.

Taking the Praja-side first, we may frankly mention that there are some vital points whereon we too (like Hazrath Moulana Abdul Bari, Dr. Rabindranath Tagore, Mr. C. F. Andrews, Mr. Jayakar, etc.) have not been able to see eye to eye with Mr. Gandhi and other leading Congressmen. For example, while enthusiastically desirous of and actually inciting to India's economic uplift and independence and while cheerfully recognising, blessing and advocating the Spinning Wheel as the eloquent emblem thereof, we have not—after reading and several times re-reading Mr. Gandhi's reply to Mr. Andrews—been able to approve of the indiscriminate burning of foreign cloth which India has already paid Manchester and other places for. The sending of it to sufferers in Smyrna or elsewhere we can and do cordially agree to; but the burning of it all is simply revolting to us and our conceptions of positive and constructive methods afore-explained. And in our discourses and lectures at Dakor and elsewhere, we have been stating such facts candidly and have even written to Mr. Gandhi about them freely. If by so doing we stand to incur the displeasure of the dissatisfaction of this or that Congressmen, we simply cannot help it and we cannot, on any such account, cease from conscientiously explaining the truth as we ourselves honestly understand it.

And if, secondly, by our placing of Dharma thus on the highest pedestal, we come into conflict with a Government that places crooked diplomacy above straight-forward Dharma, and selfish policy above impartial Justice, and if we find ourselves clapped into Jail in consequence thereof, even then we have absolutely nothing to regret. Surely, prison life *earned as the Wages of Dharma* is no disgrace. Sacred History tells us that the Lord Shri Krishna (whom millions of devout Hindus worship even to-day) was born in Jail and was concealed, so to say, in Gokul for years from the tyrant Kansa; that Adi Shri 1108 Shankaracharya (our own Spiritual Progenitor) stood thrice in deadly peril

TRIAL OF ALI BROTHERS & OTHERS.

on account of His Dharmic teachings and was rescued twice by His disciple Shri 1108 Padmapada Acharya and once by direct divine interposition; that the Holy Prophet of Arabia similarly underwent enormous persecution; that Joseph, the favourite son of Israel, was imprisoned for refusing to commit adultery with Potiphar's wife; that the Hebrews under Aaron and Moses were oppressed by the Egyptians for desiring to perform a religious sacrifice in the wilderness to their Jehovah; that John the Baptist was imprisoned and beheaded for condemning the Tetrarch Herod's incest with his own brother Philp's wife Herodias; that Jesus Christ the Prince of Peace (the supposed " Lord, Master " and Saviour of the Western world to-day) was first concealed in Egypt for years from Herod and was finally condemned by Pontius Pilate to wear the crown of thorns and bear the Cross of shame on Calvary as a traitor to Rome, simply because He preached to the Jews the Kingdom of God; and that, as for the Jews (to which Europe-persecuted unhappy Eastern race, England's present Viceroy of and Secretary of State for India both belong) the stoning and otherwise maltreating and murdering of the Prophets of Jehovah was almost the daily routine pastime and recreation of later-day Israel and, (according to the heart-rending but bootless lamentations of Isaiah, Jeremiah, Ezikeil, Daniel, Hosea, Joel, Amos, Obadiah, Jonah, Micah, Nahum, Habukkuk, Zephaniah, Haggai, Zechariah, and Malachi—the 4 major and 12 minor prophets of Israel) was solely responsible for the political annihilation and final scattering up of Jehovah's own *chosen* people! There is nothing therefore to be ashamed of in prison life or any so-called " punishment " meted out by bloated temporal might to humble Spiritual Right!

Even from the worldly standpoint of public reputation and disgrace (which a Sanyasi, however, has no business to worry about) we notice that Lala Harkishinlal who was condemned as a traitor to the Queen and had his entire property confiscated under the Chelmsford—O'Dwyer administration, is now the trusted minister of the Punjab under the Reading-Maclaglan rule and Lord Reading is inexpressibly enamoured of

and publicly eulogises his brilliant sense of humour and that, inspite of Mrs. Besant's denunciations of Mr. Gandhi and the Non-co-operation programme of the Congress with greater virulence than the Government's, we here (in the Karachi Central Jail) have been having the instructive and interesting experience that, since our committal to the Sessions even Nationlist papers of the ultra Non-co-operationist type of the "Bombay Chronicle" are being allowed to us but poor Mrs. Besant's "New India" alone is bracketed with Mr. Gandhi's Young India and proscribed. With such experiences (especially like Lala Harkishinlal's) about the value to be attached to the encomiums or the prosecutions emanating from our Imperial and provincial Governments, we wonder if there is to-day even a single benighted soul in all India (or elsewhere) who will infer credit or discredit to us merely from any such action on the part of such an utterly discredited and disreputable administration.

No one compelled us to don the saffron robe of Sanyas. On the other hand it was we that voluntarily sought it and—after 16 years of weary longing—finally accepted the long longed life of Renunciation. And the heart and the quintessence of Renunciation consists in the performance of our allotted Dharma in absolute disregard of happiness and misery, profit and loss, victory and defeat. At the time of taking Sanyas, we (Sanyasis) with appropriate Mantras full of deep spiritual import and beauty—formally renounce the whole world (including father and mother, wife and children, land and lucre and even temporal governments and National Congresses) and we swear eternal and indivisible allegiance to our only Lord and Master, to wit the "Everlasting Yea" of Carlyle. And so, in accordance with that pledge of Sanyas, we have no option but to speak out the truth and preach the Dharma without fear or favour.

And as, for the loss of personal liberty which prison life entails, we believe in the Vedantic teaching that correct knowledge of and undeviating adherence to the Truth alone leads to final Liberation. The Lord Jesus Christ too said (St. John's Gospel VIII 32). "Ye shall

TRIAL OF ALI BROTHERS & OTHERS.

know the Truth and the Truth shall make you free." And so, as Tiresias the blind Greek Seer (in Sophoclese's Drama) said to (king) Oedipus Tyrannus of Thebes, we have in us the strength of Truth which has *already* given us the highest and truest liberty conceivable, whatever may be our petty physical restrictions of the moment. And, after all, is not this world itself a huge prison and our bodies the prison's cells which our Divine Spirits are all locked up in and restricted by? Well and truly did the poet sing,—

“ Stone walls do not a prison make
Nor iron bars a cage;”

Many people may look askance at this doctrine of Truth and Sanyas as being of the obstinate and fanatical nature of Mediæval Ecclesiaticism which during the reign of King Henry the 11 (of Anjou) in England cost that so-called “turbulent priest” St. Thomas a Becket of Canterbury his life and put him to suffering at the hands of cruel assassins. But we need only answer and say that, to those who have realised that ineffable and inexhaustible joy which is the inherent internal characteristic of the Soul, which does not and cannot need any sort of external enjoyment for its upkeep and maintenance, and whose incomparable and imperishable Effulgence no external pains ever avail to cloud off—to us, hatred, and fear and sorrow and worry and even doubt are, utterly and in the very nature of things ABSOLUTELY IMPOSSIBLE.

If then we should and do speak the Truth and preach the Dharma as a Religious Duty of ours which we cannot possibly shirk, what should be and are our frame of mind and our object therein? Our frame of mind is one of absolutely dispassionate performance of Duty and our object is merely the lasting uplift of all concerned and *particularly those whom we condemn*. Or in other words, it is all Love and no hatred. Just as a parent or a doctor advises a child or a patient what to do and what to shun, not because of hatred, but solely because of Love, and just as the Prophets of Israel spoke with their hearts bleeding at the

SHRI SHANKARAOHARYA'S ADDRESS TO THE JURY

criminal and suicidal follies of Israel and solely for the uplift of Israel; and particularly as the prophet Samuel in the very act of denouncing and rejecting King Saul as ordered by Jehovah is pathetically said to have "mourned" long for Saul; so too have we this unpleasant duty of preaching the Raj Dharma and the Praja Dharma to the Raj and the Praja *for their own good*. As the Apostle puts it "Whom the Lord loveth. He chasteneth" and we too have to follow God's example and method and whom we love, we have to rebuke! Personally it makes no difference to us in the least and yet it is our bounden duty to remind all, *for their own sakes* of the terrible words "Vengeance is mine" saith the Lord, and rescue them, if we can, from the coming, nay imminent, consuming wrath of God.

We remember to-day, quite vividly the touching incident at the Benares Session of the Indian National Congress in December 1905 wherein, after the deliberations were all over and the usual vote of thanks to the President (the late Mr. Gokhale) had been spoken on by some Indian speakers the late Miss Margaret Noble rose to thank Mr. Gokhale, *not* (as the others had done) for his great political services to India, but for his still greater Spiritual services to England in trying to make England just and thus *saving her from herself*. For as the Tamil-Poet pithily puts it "*It is the tears of the oppressed not the hostile armies that undermine the thrones of mighty monarchs.*" And so, Miss Noble regarded Mr. Gokhale as really a greater benefactor to England than to India. It is in this spirit and with this outlook that we who place Dharma and Justice above diplomacy and state-craft have got to and do labour.

If, however, the patient or the child will not merely refuse to profit by the salutary—though perhaps, often times, (physically or mentally) bitter medicine or advice of the doctor or the parent, but will even assault the latter therefor, it is no disgrace to the latter but untold suffering to the former, that will really ensue therefrom. And so, even as Amaziah the officially appointed "High Priest" of Bethal (the House of God) himself endeavoured and also instigated Jeroboam II (the fool-

TRIAL OF ALI BROTHERS & OTHERS

ish son of Joash and King of Israel) to gag Amos the true Prophet of Jehovah from carrying Jehovah's message of uplift to the king and to the people, and it all turned ultimately detrimental not to Amos the stern Truth speaker but to Jeroboam the momentary-pleasure-seeker and to Amaziah the false praise giver; so too if self-advertised and officially favoured "religious" individuals and mandals" in India (whom we need not name here) will not merely wink or connive at ignorant blunders of the Raj or the Praja or both (which will be bad enough, in all conscience) but, like Amaziah or Caiaphas, fawn on, flatter and instigate either against those whose only function is the preaching of Dharma as commanded by the Lord Almighty, surely it cannot hurt the latter but will only recoil boomerang-like and redound to the infinite and irrevocable injury of the flattering instigator and the duped instigated. Nor can we, any more than the prophet Amos, refrain on any such account or at any body's bidding, from our God-ordained Duty of Dharmopadesha !

III—THE CHARGES.

With this exposition of these general principles of our Dharma as a Jagadguru and its bearing on the affairs even of so-called secular life and with a reiteration of our absolute innocence of any attempt or conspiracy to tamper with the loyalty of soldiers, we had indeed, at first, actually concluded our statement. But, we subsequently learnt from Prof. Vaswani of Karachi (the first Karachi gentleman who visited us here in Jail) that the Resolution of the Conference did actually contain a reference to Muslim Sepoys and declared it *haram* for any Muslim to continue any longer in the army. And therefore, it has become necessary for us to add to this statement considerably.

But we must first formally repeat that we knew nothing of any such item on the programme, were not called upon to and did not, in fact, say even a word on it and cannot therefore be charged with any offence under Section 131 or 505 or 120B. For if mere presence at the meeting (without understanding even a single syllable of the proceedings could suffice to make us guilty, much more therefore

SHRI SHANKARACHARYA'S ADDRESS TO THE JURY.

—to use an Euclidian expression—should it have that effect in the case of all the thousands who attended the Conference, *understood* all the proceedings and voted deliberately, enthusiastically and unanimously—therefor! Or, in other words, the whole Conference should have been declared an “unlawful assembly” and hauled up under the sweeping embrace of Section 149 I. P. C. We however, notice that this is *not* the Government’s position.

It is remarkable that the warrant against us personally i. e. the 6th accused in this case—as copied by one of our pupils at Dakor and also by the Jail Superintendent at Karachi—singled us out for the honour of a charge under Section 105 I.P.C. (relating to or arising out of, murder in self-defence). We are not aware of even yet having had the pleasure and the privilege of even the remotest connection with a case of murder *not even* be it noted *as the murdered person*! The only murders we can plead guilty to are of Adharma (unrighteousness) in all its forms; but we are not aware of any section of the Indian Penal (or any other) Code which we can be tried under, for that glorious offence and even if there should be any such section, unknown to us, somewhere, we would fervently bespeak the Court’s consideration for the fact that the very continuance undeterred of such unjust prosecutions (as ours) proves that injustice has not died out of the world yet, and that the utmost charge against us, therefore, can only be of an attempt at, not the actual perpetration of, murder (of injustice)! As, however, this mention of Section 105 against us has subsequently been declared to be an error, we render hearty thanks for this small mercy and pass on to the next section i. e. 120B (Conspiracy).

Hereon we have to say that, unlike Moulana Mahomed Ali who—in the crowded Kanyashala—had atleast his heavy breathing brother to “*conspire*” with at mid-night (in the derivative sense of that term i. e. *breathing together*) we, in our spacious quarters miles away out of the city, had only three boy-pupils and our cook with us for the whole building, slept altogether alone and could therefore have been guilty only of midnight *Unispiracy* (breathing alone) for which, how-

ever, two new sections (say 120C and 120D), defining the offence and the punishment have yet to be manufactured and incorporated into the Indian Penal Code, pending which, we have necessarily and helplessly to deny ourselves the pleasure, the privilege, and the honour of pleading guilty on this charge too.

And then again, whereas, according to elementary common sense and the rudiments of the English Language as well as the open admissions and the tacit implications of the Indian Penal Code itself, it is the very essence of Conspiracy that the "conspirators" conspire secretly, it strikes us forcibly that a charge admittedly arising out of a Resolution which was *unanimously* passed at a *Public* Session of an All-India Conference, which had been foreshadowed and promised by the special as well as the normal sessions of the Indian National Congress at Calcutta and Nagpur in September and December 1920 which Mr. Gandhi is now said to be regretting he had not been present in Karachi in July 1921 to support and which, we understand, is now being passed by all the Congress Committees and Khilafat Committees all over India—surely such a charge cannot, by any intelligible, intellectual process (however far fetched) be brought under section 120B I. P. C. (conspiracy). And we cannot, therefore, help feeling that the charge that has actually been brought against us thereunder is simply too preposterous to be tenable even from the merely legal point of view and that any attempt even under section 149 (the only one that *can* possibly apply), to extinguish the Zeit-Geist is bound, under these circumstances, to be as futile as King Canute's commands to the waves of the sea.

Passing on to the main charges i. e. those under sections 131 and 505 I. P. C. we have to place emphatically and indelibly on record, our wonder that even if we had had no temperamental, religious or political objections, even if, we had been co-operators (which, thank God we are not) with a government whose wholly original and inimitably brilliant conception of "co-operation" is that we should bow and agree to everything they say and do or, at the most, should become members

SHRI SHANKARACHARYA'S ADDRESS TO THE JURY.

of a Mutual Admiration Society and beg with folded hands and with fulsome flattery for this or that elementary right (including even the right to perform our Religious Duties) as though it were a mighty condescension and a celestial favour and even if we had been desirous and prepared to defend our-selves in the usual manner, we personally (i. e. the 6th accused in this case) found absolutely nothing in the whole prosecution evidence or argument before the committing magistrate to base a single cross examination on or to defend ourselves against. Not a jot or tittle vestige or shred, of evidence was presented before the magisterial Court of enquiry, to the effect that we ever uttered a single syllable anywhere about the Army or the Navy or alluded by name or even by implication thereto. Beyond an allusion to our arrival at Karachi on 7th July, the reception given to us at the station by the people of Karachi, our procession through the city and the fact that we made our (second) speech at the Conference, the entire prosecution evidence had consistently and persistently, refused to do us the honour of even a casual reference to us or our residence, let alone any sort of proof that we ever spoke on the Army question at all. The most eloquent, convincing and clinching proof of the truth of this contention of ours was furnished by the significant fact that the prosecution witnesses and the resourceful counsel for the crown and even the committal order merely referred to our speech and did not file or quote from any report thereof, or extract therefrom as an exhibit, for the very simple reason that the speech actually contained *no* reference whatsoever to the Army and so could not possibly justify the unrighteous attempt of the government to connect us with sections 131 and 505.

Looking carefully into the depositions of all the various witnesses who were trotted forth one after another in the lower court as C. I. D. reporters or as Press reporters who had been present at the Conference we note, that, in the case of every one of them, the learned counsel for the Crown had—with reference to the speeches of all (but ourselves and Pir Saheb)—his stereotyped and unvarying series of questions

as to who the speaker was, what language he spoke in, whether the witness had taken correct short hand notes of the speech, whether he was an expert therein, whether the notes contained only what the speaker had actually stated and whether a long hand transcript had been prepared from the shorthand report and the witness was then made to produce and file the long hand-report as an exhibit; but when each witness came to *our* speech, Mr. Elphinston merely elicited the single statement that we spoke next and that we spoke in English but, without putting the further series of questions about shorthand notes and longhand transcripts and so on, he invariably and precipitately—as if he were treading on hot coals—*decamped* to the next speaker. We solemnly contend that this was solely and simply because the filing of our speech and an analysis of its contents would certainly have had the effect of not merely failing to prove our partnership in the alleged conspiracy in respect of the Army but of positively proving the exact contrary with logically, scientifically and even geometrically irresistible precision.

Add to this, the facts mentioned at the very outset, that we did not cross-examine the Crown witnesses and that all our papers of over 15 years past had been illegally attached by the police and brought over to Karachi and yet, not an atom or even an electron of evidence was forthcoming in the lower Court to substantiate this nebulous charge against us. The inference is—under the circumstances—irresistible that the prosecution had not the elementary honesty and rudimentary manliness to state even once candidly, even at the final argument stage, what it actually knew all the time i. e. that our speech contained absolutely nothing about the Army and that the whole head and front of our crime, in the eyes of the Government, was really that we had been present at the Khilafat Conference and had expressed our Religious sympathy with Islam, the Khilafat and the Angora Government (which the Government of India, too, has, all the time been obstreperously expressing its lip-sympathy for and theatrically shedding its crocodile tears over).

SHRI SHANKARACHARYA'S ADDRESS TO THE JURY.

We need not content ourselves, however, with the argument from silence i. e. the negative inference (however obvious) from this deliberate, consistent and ingenious act of omission on the part of the prosecution. We can go further and call attention to the positive—tell tale fact that the reports of the conference in the Nationalist "New Times" and even the Anglo Indian "Daily Gazette" (both of Karachi) which were actually filed by the prosecution in connection with the speeches of the others and which, happily, contained a report of our speech too, *amply suffice by themselves* to bear out, sustain and prove our contention that we never spoke about the Army.

In passing, we would just call to mind the fact that the C. I. D. witnesses stated that the whole assembly (including themselves) stood up and passed the Resolution; and hence the inclusion of Moulana Shoukat Ali. We would modify that statement with the fact that, as required by the rules of our Order, *We alone continued sitting at all times*. If Moulana Shoukat Ali could be hauled up for merely standing up when the Resolution was being passed, what about the C. I. D. men who, *understood* the meaning of the Resolution (as we alone did not) and who too, *on their own showing* stood up to signify their support of and assent to the Resolution? This merely in passing.

The Counsel for the Crown referred pompously, in his argument in the lower court, to our arrival at Karachi and the fact of our having spoken as "proofs" of our participation in that fictitious conspiracy. Now supposing, for a moment, just for argument's sake, that we had opposed the Resolution *in toto* or dissented from parts thereof, would our mere presence and speech inculcate us? Or, would it be necessary to go into the contents of our speech? And why, but for the consciousness of utter futility, did he fail to ask his legion of witnesses a single question thereon, to argue thereon and even to file our speech as an exhibit in the case!

IV—THE STAB FROM BEHIND.

It was evidently this utter bankruptcy with regard to relevant evidence against us actually before the Court that was accountable for the government's indefensible out-of-court proceeding against us in the shape of communiques, circulars etc, calculated to prejudice the minds of the judges, and the unknowing, undiscerning and unthinking public against us personally, by means of the unscrupulously libellous allegation that we are not the Jagadguru Shankaracharya of the Sharada Peeth but only an Impostor ! Unlike the Government which has shown itself so miserably and terribly lacking in scrupulous adhesion to the fundamentally requisite judicial attitude which alone is worthy of it in criminal prosecutions, civil litigations and private controversies, *we* cannot forget that the present case is concerned, not with the Sharada Peeth Gadi, but with our speech at the Khilafat Conference of July last in Karachi. And, therefore, we shall not refer to the Peeth affairs, over and beyond what inevitably arises out of the Government's own underhand efforts against us in connection with and as a sort of collateral security and prop for the grave criminal prosecution which they have basely and baselessly launched against us.

We need merely state that His Holiness Swami Shri 1108 Trivikram Teerthji Maharaj (the late Shankaracharya of the Sharada Peeth) recognised as such by their Holiness the Shankaracharyas of Puri, Shringeri, Kumbhkonam etc., the Maharajas of Kashmir, Dharbhanga Kathiawar etc. and all the Religious Associations all over the country like the U. P. Dharma Rakshana Sabha, the Bharat Dharma Maha—Mandal etc.), initiated us on 4th July 1919 at Benares as His Patta Shishya (Successor-Designate), that we officiated for Him during his illness and debility from March 1920 to February 1921, that He formally invested us in December 1920 with the full powers and the authority of a Shankaracharya and that, on the 27th February 1921 at Jaedan in the presence and with the co-operation of the officials of the Jaedan State and of Mr. K. J. Bakshi of Rajkot (Ex-Administrator of Per-

SHRI SHANKARACHARYA'S ADDRESS TO THE JURY.

landar State and Ex-Chief-Justice of Junagadh State) and with the Vedic ceremony of Pattabhisheka (Coronation) enjoined in the Shastras, His Holiness *with His own Holy hands* installed us on the Peeth as Jagadguru Shankaracharya and retired therefrom for a quiet literary life. His Holiness is, happily still in the flesh and can substantiate all these statements. Mr. Bakshi gave telegraphic information about the installation to all the Shankaracharyas, the Maharajas, the Mahamandals etc., and the press, while the chief Magistrate of Jasan State gave a detailed report of the same to the newspapers. Our connection with the Sharada Peeth is thus securely based on the impregnable rock-foundation of our direct and immediate Spiritual descent from and public Installation by the late Shankaracharya Himself and is thus—both morally and legally—as unimpeachable and binding as the anointing of Aaron by Moses or the anointing of King David by the Prophet Samuel or the appointment of Lord Reading by His Majesty King George V to the Viceroyalty of India ! The fact that, for their own subterranean political and personal reasons, the governments of India and Bombay dislike the choice, can no more do away with the moral and legal facts of our Shankaracharyaship or invalidate it, than can the anti-Reading fulminations of some anti-Semitic journalistic fire-brands of England, do away with the fact of Lord Reading's appointment or invalidate it. We may add that we have received from our Shri Guru Swami and are using, the images, gold and silver maces, chhatras, chamaras, and other legal emblems and paraphernalia and shawls, laces, sliks etc., presented to Him by the present Shankaracharyas of Puri and Shringari and the Maharajah of Idur, the Maharani of Singahi etc., and that we have ourselves received similar offerings from the Maharajah Holkar of Indore and the Maharajah of Dewas (junior) in recognition of our Shankaracharyaship and have actually been worshipped by them, as such with flowers etc., in the orthodox Hindu style (without any reference to our political complexion).

We may also mention that *all* the people of Dakor (our old Peeth Headquarters) recognise us as the Shankaracharya of the Sharada Peeth,

that even the (government) Educational Inspectors etc., performed our Pada Poojah (i. e., worshipped our feet with flowers etc., and the ritual followed by orthodox Hindus), that the Karachi District Police (from the European D. S. P. to the Gujrati Sub-Inspector) also recognise us (as exemplified in their reference to us—even after our arrest—in the Panch-nama connected with our box of papers—as Shri Shankaracharya *without our name*) and that, if a referendum be taken to-day at Dakor (80 p. c. of the people being orthodox Hindus who have never dreamt of politics, 15 p.c. being co-operators and 5 p. c. being non-co-operators) the votes of persons recognising us as the real Jagad Guru will be found to be exactly 100 p.c. no more, no less.

We are thus not a “political” Shankaracharya brought forward for their own purposes by the Congressmen and the Khilafatists, but the actual Shankaracharya of the Sharada Peeth recognised and worshipped as such by hundreds of thousands of wholly non-political and even anti-political orthodox Hindus at Dakor and all over the country. In this connection it is interesting to mention that (the aforementioned ex chief justice of Junagad, Mr. K. J. Bakshi of Rajkot is sharply divided from us in politics and that Pundit Brijnath Sharda M.A., LL. B., of the U. P. Dharma Rakhshan Sabha, is Secretary of the Lucknow Aman Sabha and the author of some anti-non-co-operation hand-books and yet, being, unlike the governments of India and Bombay, of a judicial frame of mind and of a truth-loving disposition, and consequently, constitutionally incapable of an attempt at the suppression of the truth under any sort of *camouflage* for personal, political or party purposes, both of them recognise and venerate us as their Shankaracharya and discuss all such political or other controversial matters with us freely, frankly and fully. And we also find that, in the recent monster meeting of the orthodox Hindus of Lucknow to protest against the Government’s false circulars about our “imposture,” it was P. Brijnath Sharga who moved the principal resolution of protest against such misrepresentations; and that, as a result of this sacriligious action of the Government against us, the orthodox people of Lucknow who were

SHRI SHANKARACHARYA'S ADDRESS TO THE JURY.

co-operators or political opponents so far, have now become Non-co-operators ! And only one dissented !

When, however, at the end of our tour in the Punjab in April and May 1921, a pair of solicitors wrote a letter from Bombay to the D.S.P. of Amritsar that the real Shankaracharya of the Sharada Peeth was not we but a certain client of theirs (into whose name, qualifications etc., we need not now go, but of whom it would suffice, for our present purpose, to state that he is illiterate, that he is not spiritually connected with our Peeth, that he was not recognised (as against our Shri Guru Swamiji) by a single Dharmacharya, a single Maharaja or a single Dharmic Association and that, ever since—Shri Mahdave Teerthji (our Predecessor's Predecessor) passed away exactly five years ago, he has been a claimant to our Peeth in the Civil Courts of Ahmedabad and Bombay and yet, in spite too of our refraining *on principle* from all participation in that litigation, he is no nearer the Peeth to-day than he was when he began this bootless business—imagine the Punjab Government (which had had the worst of it, in its tussle with us at Amritsar, in its unrighteous endeavours to gag us from lecturing on "Dharma")—descending to the melancholy meanness and the malignant vindictiveness of issuing the solicitors' private letters as an "official communique" of its own and advertising it all over the country by means of a telegraphic reproduction of it to all the papers from Simla through that Government tool the utterly partisan Associated Press ! Surely, when an individual who has failed ignominiously on all sides (including the Civil Courts and his "own" place Dakor,) is foolish enough to write privately in this manner to the Government, the magistrates, the Police etc., about his claims relating to and determinable solely by ecclesiastical Hindu Law, the Government—if it had not been wickedly blinded to all sense of judicial impartiality and dignity and self-respect, by its partisan political prejudices—would (as it should) have unhesitatingly thrown such letters into the waste-paper basket or, at the most referred the correspondent to a duly constituted Ecclesiastical Court having jurisdiction over

the affair in question! And yet, on account of its spite and hatred against us, the Government was mean enough and vindictive enough to take sides openly, flagrantly and shamelessly on such a purely Ecclesiastical question and to issue an official communique thereon with the sole object of discrediting us all over India in general and in the Punjab in particular! We wonder, however, whether there was even a single individual anywhere who was really hoodwinked by and could not see clearly through such transparently shady tactics!

Then came the disgraceful incident at Dakor wherein, when the authorities of Shri Runchodji's temple (the most famous place of pilgrimage in all Gujrat) arranged, (as usual in the case of every new Shankaracharya of the Sharada Peeth on His first visit to Dakor), to present us with a palanquin, shawls, laces, silks etc., in recognition of our Shankaracharyaship, the Bombay Government had the shameless effrontery—at the suggestion of our unmentionable rival claimant—to bring tremendous pressure to bear upon the poor old orthodox servants at the temple, by means of threats of all sorts, to prevent the function from materialising—an attempt which the Local officials, under orders from above, kept up for three days and three nights in succession, but which alas!, owing to the impossibility of bamboozling the honest and enthusiastic people (however old, old-fashioned, orthodox and ignorant) at the old Headquarters of the Peeth, ended in unalloyed discomfiture to the Government and its new ally, adding no doubt to its and his fierce hatred of us!

And thus, having, in pursuance of its well-known policy of "Divide and Rule" euphemistically called the "Balance of Power," pitched upon and secured an ally and a tool in the shape of a counter-claimant to our Peeth, whom it could conveniently play off in its sordid intrigues against us and who possesses an excellent passport for the Government's favour i. e. that he denounces the Congress "lock, stock and barrel," the Government has now had the temerity to arrest us on an absolutely false charge, *knowing* it to be false, having no evidence whatsoever to adduce and yet relying doubtless on our reputed "non-co-operation"

SHRI SHANKARACHARYA'S ADDRESS TO THE JURY.

principles to pull it through! We verily believe that, if the Government had only unearthed and secured this ally and tool *before* our Punjab tour, it would very probably have shot us down (with Dr. Kitchlew, Mr. Girdharilal, Dr. Satyapal etc.,) at Amritsar (*as it actually threatened and prepared to do*) and created a second edition of the Jallianwalla Bagh!

But, as a general rule, the blustering bully is really *at heart* a craven coward, and so it is that we find this blustering Government first arresting us and then cowardly stooping(1) to the suppression (as long as possible) of the news of our arrest, (2) to the hood-winking of the public on the matter by including us (in the Bombay Government "Communique") under the heading "others" after the Ali Brothers, (3) to describing us, in our warrant and elsewhere (when the name had at last to be published and could be concealed no longer), as "Venkatram alias Bharti Krishna Teerth" without the term Shankaracharya; thereby deliberately cheating the hundreds if not thousands of Hindus and others who know and venerate us as Shankaracharya but have never even heard our correct name, (4) to the issuing of an official communique from Simla describing us as "a Hindu who calls himself Shri Shankaracharya" (as though Hinduism were incompatible with and a disqualification for the Shankaracharyaship) and thus, by suppressing *our* name alone, keeping up the mystification of the public as to our actual personality and correct identity, (5) to the publishing at Bombay of an official communique by the official Fabricator and/or Propagator of Misinformation ironically or euphemistically termed the "Director of Information", to the absurd effect that, whereas there were rumours about the Shankaracharya of the Sharada Peeth having been arrested and taken to Karachi for trial "The person actually arrested is one Venkataram alias Bharati Krishna Teerth who has assumed that title"! (6) to the publication of the same sorry stuff in the "Sindh official Gazette" from Government House, Karachi on 23-9-1931 as Press Note No. 828; and (7) to the issuing of a circular to the Karachi public in similar terms by Mr. W. W. Smart, the smart District Magistrate of Karachi, all harmoniously woven together so as to make truth and Dharma *smart* and bleed under the iron

rods of False-hood and Adharma ! Here again we wonder if all this crooked and elaborate hoodwinking campaign really succeeded in throwing dust even into one individual's eye or was, in reality, utterly wasted !

The veriest Tyro in Indian Religious technique knows that, while an English Commoner on being raised to the peerage has the liberty to and does often voluntarily, *assume* a new name; a Hindu on entering Holy Orders, has not the liberty to but must—necessarily and as a religious rule—discard the old name, and, not *assume* but *accept* the name newly conferred on him by his Guru (Spiritual Preceptor), in accordance with the rules elaborately laid down for this purpose in the Hindu-scrip-tures ! Thus, whereas Sir. Rufus Isaac had the liberty to and actually did *assume* the name Lord Reading, Prof. Venkata Raman Shastri Sa-raswati—on taking Sanyas (which, however, was on the 4th of July 1919 and not somewhere in 1916 as a lying message of the Associated Press gravely announced)—had not the liberty to *assume* but had perforce to and did therefore *accept* the new name Swami Shri Bharati Krishna Teerth bestowed on him by His Guru ! Under these circumstances, it must be obvious that to speak of us as “one Venkataram alias Bharati Krishna Teerth, a Hindu who calls himself (or has assured the title) Shri Shankaracharya” is no less reprehensible than to speak of “one Rufus alias Reading, a Jew who calls himself (or has assumed the title) Viceroy of India” ! And yet, such is the exact and mathematically identical course pursued by the supposed responsible and dignified “Govern-ment” of India and Bombay in our case ! And to speak of us (as several prosecution witnesses and even Mr. Elphinston did) as “Venkataram” (which was not even our Purvashram name but an old family pet name of our childhood) can only be compared to the describing of Mr. T. G. Elphinston as Tommy ! And, as in duty bound, the “Daily Gazette” and other Anglo-Indian newspapers have all faithfully published all such inane rot with the big-type scare-heading “Aliases of an arrested Man !” and so on, all insidiously calculated to bring against us the minds of the people on the one hand and of the poor magistrates and judges

SHRI SHANKARACHARYA'S ADDRESS TO THE JURY,

who—whether Indian or non-Indian by birth—live, move and have their being in Government communiques and Anglo-Indian newspapers !

If the Government had itself really believed this nauseating nonsense and gratuitous fiction about our being an "Impostor" or if it had been an honest and manly Government, it should and would have openly prosecuted us for cheating, false personication etc., and not dealt us this dastardly stab from behind in connection with another charge altogether !

The worst part of this infamous conduct and conspiracy is yet to be laid bare. Not content with issuing these communiques and circulars with a view to cheat the public and to prejudice the Courts, the Government has also approached the Courts directly and sought to influence them. The aforementioned lying Press Note No. 828 of the "Sind Official Gazette" denying our Shankaracharyaship was sent in to and finds a place in the records of the committing magistrate as special Exhibit B. in the case. And to make assurances doubly sure, there is also a telegram from the Assistant Commissioner of Sind against us *to the Court* through the District Magistrate of Karachi !

In this connection we are reminded of a recent civil case connected with our Gadi (in-to details where of we need not now go) wherein the British Resident at Baroda wrote—privately to the District Judge of Ahmedabad to pronounce Judgment in favour of a certain party and Justices Heaten and Shah of the Bombay High Court were shocked at this letter which they saw amongst the records before them and animadverted in strong terms on the nefarious conduct of the British Resident at Baroda in thus endeavouring to influence and corrupt the even course of justice in a British Indian Court of Law ! We should like to know if there is any the slightest difference of a saving character in the atrocious conduct of the Assistant Commissioner of Sind in seeking to bias the minds of the Judges against us !

TRIAL OF ALI BROTHERS & OTHERS.

In the criminal proceedings in the Martial Law areas in Malabar there is the interesting case of a Moplah who had been convicted of a certain charge, being brought *in prison clothes* on another charge before the Martial Law Tribunal and we find the Judges objecting fastidiously thereto on the plea that even the sight of the prison clothing, is calculated or likely to prejudice the mind of the trying Judges against the accused ! And, consequently, they ordered him to be brought thereafter in his ordinary clothes. If then, even in the case of a duly tried and convicted man it is reprehensible—even under Martial Law—to give scope *through the prison clothing* even for the possibility of a prejudicial suggestion in the minds of the Judges, how much more so under the ordinary law which, according to Sir William Vincent and others we are now supposed to be prosecuted and tried under—must it be for the Government to go on deliberately piling up a huge heap of positively false and venomous communiques, circulars etc., about the imposture of one who has not been tried on any such charge—one who is (both morally and legally) as truly the Shankaracharya of the Sharada Peeth as Lord Reading is England's Viceroy of India ?

When Sir Maneckji Dadabhoy began to speak about out case the other day in Imperial Council of State, the Government spokesman came down upon him with the one word 'sub-judice.' May we know by what Law a comment on a (Sub-judice) case amounts to contempt of Court ?—only when it is in favour of the accused and does not amount thereto if it is against him !

It is therefore a moot question, how far this flagrant and bare-faced plot to prejudice the minds of the Magisterial and Judicial Officials and thus pervert the even course of justice by means of such a maliciously conceived, cleverly planned and adroitly executed series of wholly false and immoral publications in regard to a case that is still sub-judice, will be cognised and punished by the local courts (as was sure to have happened,) if some poor Indian Editor had been the culprit

SHRI SHANKARACHARYA'S ADDRESS TO THE JURY.

and, how far even the miserable plea of "privilege" can avail to successfully stave off a criminal action launchable by us under section 499 I. P. C. (Defamation) which (under "privilege") merely indemnifies magistrates, judges etc., as regards and *bona fide* remarks of theirs *arising out of the actual case before them* and does not give any one (even the Government of India and Bombay) the unlimited license to say aught against an accused in matters wholly *malaprapos* of and irrelevant to the case actually on hand.

We note that even the "Indian Social Reformer" (which is, by no means, a Non-co-operationist paper and which differs from us radically in political, religious, social and other matters,) asks the same question as to whether the Law of Defamation (499 I. P. C.) does not apply to the Director of Information and calls upon him to retract and apologise handsomely for his libel against us ; and the present Chief Judge of Dewas junior (who has married a widow and is thus out of the pale of orthodox Hindu Society) emphatically seconds the proposition.

We learn from the 'Bombay Chronicle' and the 'New Times' that, in reply to the protests received from practically the entire people of Dakor against the Government's mendacity in respect of our Peeth, the "Director of Information" has indeed written to Dakor admitting that in view of the existence of two other claimants to our Peeth, the problem is a tough and complicated one, but *assuring* the people that *it was not and is not the Government's intention to take sides in a religious controversy*. It is remarkable, however, that even this tardy, belated, half-herated, insufficient and unsatisfactory 'Explanation (which is no explanation at all) is to be found merely as a private communication (which the recipient has sent to the Press) and has *not* been published—like the original lie as an official communique containing a straight forward and positive retraction of, let alone an honest apology for, that lie. And certainly much less does it come in as an exhibit into the records of our case. And yet we are asked and expected to be green enough to believe that the Government is *not* taking sides. What else, on earth, has it been and is it doing all the time, we verily wonder. ?

We should not have objected in the same way as we now do—if the Government had had the honest courage and manliness to say openly that it did not care a farthing for Hinduism and our ecclesiastical position as the Jagad Guru (holding a much higher office than the Archbishops of Canterbury and York and comparable only to His Holiness the Pope of Rome) and that it had boldly arrested us in spite thereof. All that we now condemn is the Government's recreant and cowardly conduct in cheating the judges and the people by sailing under false colours and taking shelter under lies and subterfuges. The Viceroy of India and the Governor of Bombay may have no sense of shame or of self-respect, but we, *on England's behalf*, feel ashamed of such cowardice and subterfuge on the part of the highest representatives in India of the mighty and puissant British Empire and we feel unavoidably compelled, by these recurring experiences, to concur with the American Professor who, while on a visit to England, felt nauseated by the interminable references on all sides to the sun never setting on the British Empire and gravely accounted for that unique phenomenon by saying "Quite true" and quite necessary too. For, God, who is omniscient knows that he cannot trust most Englishmen in the dark and hence keeps throwing the Sun's light on them somewhere all the time." !

It is impossible, nay positively immoral and sinful, to mince matters and speak in measured terms of the immeasurable iniquity underlying the dastardly conduct of a so-called "Government" which has, with diabolical deliberation, determined to clap us into Jail, somehow, without even an iota of evidence (worth the name and adducible against us in the open court) and, owing to this utter insolvency not merely in righteousness and statemanship but also alas ! in respect of evidence to convict us with (even according to its own codes of procedure), has the craven cowardice to stab us behind the back with its irresponsible *obiter dicta* and *ipse dixit*—not worth the paper they are written on and the ink wasted thereon—as regards the purely ecclesiastical question of our Shankaracharyaship of the Sharadha Peeth ! Equally impossible for us, morally, is it to acquit the Imperial, Provincial and District autho-

rities of a dark and deliberate criminal conspiracy (punishable with 7 years rigorous imprisonment under the second part of section 211 I.P.C. read along with 1 20-B I.P.C.) organised for the purpose of convicting us of false and malicious charges (under 120-B, 131 and 505). [One of which is punishable with transportation for life], *knowing* all the time, as the prosecution procedure itself has clearly proved, that there was "*no just or lawful ground*" whatsoever, for any such criminal proceedings against us ! Unlike the Government which has both the will and the power to illegally attach even our Pecth papers of years before our coming to the Gadi and without even making a list thereof and without producing a search warrant therefor, we have neither the inclination nor the authority to attach and scrutinise the correspondence between the 3 conspirators (Imperial, Provincial and District) on the subject of our arrest and incarceration and cannot, therefore spot out and put our finger exactly on the arch-plotter in this conspiracy and apportion the blame and the responsibility, with mathematical exactitude, amongst the whole gang. But, even if Lord Reading had merely let himself be guided—or rather misguided—by the Bombay Government, nothing can absolve him of his moral responsibility for keeping a rigorously judicial frame of mind absolutely proof against all possibility of taking sides—for political or other reasons—with parties in their religious or other private concerns ! Surely, ther is—*pace* the Bharat Big Mandal—no law yet, whereby private property or ecclesiastical authority can be retained or must be forfeited, according as one prefers to be of this or that political complexion, which the Government has placed a premium or a discount on !

Surely, Lord Reading cannot pretend that this act of his Government is a sample of his Nostrum "Equal-Justice" which he has been advertising to the world *ad libitum* and even *ad nauseum* ! If, however, he has really been over-reached and "sold" in this affair (as in the case of the Munitions Muddle case) let him have the manliness to come forward openly and make amends herefor, according to the ancient Mosaic Law of Restitution laid down in Leviticus VI. 1-7 and numbers V. 6-7 !

V.—THE PRE-COMMITTAL ENQUIRY.

It is clear then that, besides the out-of-court *camouflage* and tomfoolery about our Peeth which we have already exposed, there was not even the ghost of the shadow of a *prima facie* case against us on the actual evidence adduced by the prosecution witnesses in the course of the magisterial enquiry which, apparently owing to the nerveless and panic-stricken and consequently irrational frame of mind which both the court and the Crown seem all the time to have been in, was blissfully innocent of all regard for any known rules of procedure and made everything indiscriminately and impartially topsy turvey from beginning to end!

The District Magistrate of Karachi began the whole farce with a prelude in the shape of a public notification about his precautions for the preservation of the public tranquility in Karachi during the days of our trial. And therein he referred to us as "some offenders" (not as "some accused"), as if our guilt was already an established fact! And this frame of mind was evidently the one which the enquiring magistrate had been instructed to show towards us and this naturally resulted in many serious errors of procedure and behaviour which rendered the trial wholly a farce and a mockery.

According to Section 80 of the Indian Evidence Act, no deposition is admissible as evidence under the Criminal Procedure Code unless it has been read to the witness in question in the presence of the accused or his vakil, and so on. And yet not a single deposition was thus read out to anybody in the presence of any one of us! We wonder how these depositions which are clearly inadmissible for proving perjury were both sufficient and admissible for committing us to the Sessions!

Hours before the accused are examined or called upon to give their statement, and hours before the Crown counsel argues on the case (which he had not opened with any sort of statement as to what he proposed to prove or to lead evidence on), the Judicial Commissioner visits the Khalkdina Hall to make sure of its fitness for our Sessions trial which is thus

SHRI SHANKARACHARYA'S ADDRESS TO THE JURY.

already an established proposition ! And, as for the inquiring magistrate, he has the charge ready before calling upon the accused to say any thing in defence and, as soon as the crown counsel finishes his brief and farcical apology for an argument, the magistrate reads the charge off without calling on the accused even at that stage—to say aught they may have to say in reply ! And worse still, on 27-9-21 *i. e.* when the Crown Counsel had just examined a handful of the prosecution witnesses and had several cartloads of them still to examine, he applies to the Court for permission to summon two originally unmentioned witnesses on his side and gets from the magistrate *an order in writing (Exhibit E.)* to the effect that the *Committal proceedings will not be delayed therefor and it will do if these men are produced in the Sessions Court !* What clearer proof can there be of the fact that the magistrate had been officially and officiously instructed and had immorally and illegally agreed to commit us to the Sessions without even hearing the prosecution evidence, let alone the defence statement ! And yet when some one points out too late the obvious fact that according to Section 219 of the Criminal Procedure Code, supplementary witnesses may—if need be examined even after the committal, but only *before* the Sessions and *only* by the committing magistrate, and that there will be difficulties in their production otherwise in the Sessions Court, Mr. Talati is compelled to bow down to the inevitable and begin whole business again in Jail in our presence just two days before the Sessions ! What a farce and what a travesty of justice is it that men who are thus openly pre-biased against the accused and who can commit them to the Sessions without caring even to hear the prosecution evidence, are set over us with powers to pronounce dooms of death, transportation for life and the like !

The court was in such a hurry over the proceedings as to read off the charges without explaining them and without having them rendered into Urdu ! And we were brought into the Court again two days later for hearing the charges read out in Urdu ! If even such a small flaw could thus need rectification, how much more so should the more serious and terrible defects and illegalities ? Surely, it was a case of

straining at a gnat and swallowing a camel !

Wherein is the difference between such a trial and an Executive order of Internment or Deportation ? Much is being made to-day of the proposed rescinding of the Rowlatt Act etc. But what is the good of it all, if the ordinary law is to be so mismanipulated as to equal or even out-Rowlatt the Rowlatt Act ? The only difference, so far as we can see, will be that whereas now, under the Special Acts and Executive Orders, we have the advantage of being regarded as possibly honourable people who have not been regularly tried, we shall hereafter, under a deliberate prostitution of the ordinary law, be supposed to have been tried, found guilty and convicted ! Is this really a change for the better or, at any rate, the change which our moderate and co-operationist friends have been panting for and congratulating the country on ?

In going into these details of these wholly illegal proceedings, it is not our object to get off on the strength of these technical flaws. On the other hand we wish our case to be judged solely on the intrinsic merits of the evidence against us and our defence statement and arguments. Nor do we desire that the case should be sent back to the same or another magistrate for retrial in accordance with the rules of procedure. On the contrary we feel that in spite of our temperamental and irrepressible optimism and cheerfulness and the extreme kindness with which the jail people are looking after us, we are as under trial prisoners—"neither fish nor flesh nor good red herring" and the sooner the final proceedings in this case are concluded, the gladder we shall be. Nor even thirdly is it the case that we are putting on record the fact that our sense of sacrosanctity of these rules of procedure has been shocked ! In reality we care nothing for them and do not, in many respects approve of them. Our whole object herein is to demonstrate, with unanswerable facts, what scant respect is actually paid thereto by those who pretend to believe therein and swear thereby and what abysmal depths of degradation the so-called "Courts of Justice" have deliberately sunk to in British India to-day !

SHRI SHANKARACHARYA'S ADDRESS TO THE JURY.

But, as our individual case in the magisterial court was practically an absolutely blank which no perfection or defect of procedure could make, mark or alter, we need not enlarge thereupon, but would call attention to the astounding mentality of the magistrate in refusing to hear our oral statement on the actual evidence before the court, not because of any irrelevancy or any political or any other digression, but just because, according to the rules of our Order (corresponding, mind you, to the clear injunctions of the Old and the New Testaments about Nazarites, Priests, etc.) we could not stand and address any one except our Guru and other Spiritual elders and superiors, while the magistrate for reasons which were and still are inscrutable to us, under any known Religious Scriptures or procedure codes—was pertinaciously anxious to claim towards us the relationship of a spiritual father !!! And, then, even after the so-called “argument” of the Crown counsel, the Magistrate did not give us the (by-himself) solemnly promised opportunity for our written statements or oral arguments, but proceeded straight—away to read off hurriedly his order of committal of us to the Sessions—an order which had been ready hours before the oral statements of the others and the Crown counsels’ arguments were actually concluded ! Thus comes it about that, even without any evidence from the prosecution witnesses against us and without any statement from us (oral or written), we found ourselves lightly—nay flippantly—committed to the Sessions !

And this takes us to the question, of our personal Religious Liberty and the Viceroy’s specious claim of a few days ago that his appointment to the Indian Viceroyalty by the Christian King of England was a sufficient and convincing proof that, under the British Government, there could be no religious persecution in India ! We know not whether Lord Reading is a real live orthodox Jew or only an Englishman in whom the Jewish element subsists merely as a racial accident of birth and has got practically snuffed out of existence on the religious side and, therefore, we have neither the right nor the desire to dogmatise thereupon. But may we point out generally, that toleration is one of the easiest

TRIAL OF ALI BROTHERS & OTHERS.

things in the world towards persons of an alien race or religion who have in actual daily life and for all practical purposes, been assimilated by us and that the crucial test of tolerance *versus* persecution comes in, only when a fundamental conflict arises, not merely in theoretical doctrines of metaphysics or private worship, but on practical precepts of everyday public life ? Leaving aside, for a moment, the root question about Islam and the British army which forms the basis of the present prosecutions, what shall we say about the wonderful magisterial ruling whereby we were deprived of our right to make a statement, because the Religious rules of our order did not permit us to address him standing and he did not permit us to speak sitting ! Is this not in itself an eloquent illustration of and convincing commentary on Lord Reading's contention about religious toleration under British Rule in India ?

Moses, St. Paul and others have laid down rigid and elaborate rules of conduct for Nazarites priests, etc., and as regards Pidyan Ha Ben (Redemption of the first born), shaving, covering and uncovering of the head, sitting and standing, and so on; and we too have similar rigorous rules in our Hindu Scriptures about Sanyasis etc., and other such matters, which you might tyrannically—by the application of brute force—coerce us into breaking, but which we cannot possibly, of our own accord, transgress ! And, although such rules did not, in the present case involve any sort of conflict with any religious rule of Zoroastrianism or any other creed or with any Code of law and, although, we made it clear that there was no disrespect intended for the Court, but only an insurmountable Religious difficulty which we were labouring under, even in such a totally innocuous case, the Magistrate had the hardihood to harshly assert that it was *his* order and “*must* be obeyed” (in preference to the dictates even of our Religion) ! If, even when there was no religious, political or other conflict of principles involved, there could be such an arbitrary and tyrannical exercise of authority for the mere pleasure of exerting it, how much worse is it bound to be for all chances of religious toleration when any such conflict is really involved ! A system of Government, Education, Procedure and so forth, which is

SHRI SHANKARACHARYA'S ADDRESS TO THE JURY.

non-moral and hence seemingly tolerant—not as a deliberately considered and positive virtue, but merely owing to callous indifference with regard to Religion—must necessarily and speedily become positively *immoral* and lead to all such petty persecutions !

As, however, we have already stated, we voluntarily took Sanyas and are bound by the rules of Sanyas. Even an ordinary association has its own rules, regulations and bye-laws which are binding on those who pledge themselves to abide thereby and deliberately become its members. So too, having correctly understood the rules of Sanyas, carefully counted the cost and deliberately entered the Holy Order, we can see no justification for breaking those rules. And as St. John, St. Paul, St. James and even the Lord Jesus Christ have all—exactly like the Lord Sri Krishna—repeatedly declared that Devotion to the Master and disobedience to His commandments are horribly incompatible with each other and just as St. Paul frequently—in his epestles—describles himself as a “Prisoner of Jesus Christ,” so too are we (Sanyasis) Prisoners of our Sanyasa Dhrama and have to perform it in utter scorn of the consequences ! Acting, therefore, on Shri Bhartri Hari’s famous maxim :—

(Sanskrit Saloka.)

(i. e. Let worldly-wise men scorn or praise,
Let wealth come in or go out as it likes,
Let Death take place now or aeons hence,

The righteous will not swerve an inch from the path of
Dharma.”

We had no option but to lose the right of making a statement, as we could not exercise it without violating our Religious principles!

And besides, as a general rule, Gosha ladies, invalids and others having any sort of disability are given special facilities and consideration and it is therefore a mystery to us why a case of Religious disabili-

lity like ours was not treated even with elementary courtesy ! Insult was added to injury by the Magistrate's original refusal to record our repeated statement about our Religious rules, precluding our standing to address him and by his insisting on simply recording that we refused to stand and address him, as if it were purely refractory or insulting act of our own free choice. And the " Daily Gazette," the " Pioneer," and other Anglo-Indian newspapers went one better and omitted all reference to us, in their report of these particular proceedings, as if we are not one of the under-trial prisoners in the case or had no right to make an oral statement like the others. It is this conspiracy of the Government and the Anglo-Indian papers for the suppression of facts and or the fabrication and propagation of falsehood that naturally and inevitably leads to the prostitution of the Law-Courts in the land in a manner that cannot be condemned to strongly. And thus it is, let us repeat, that, without even one word of evidence in the entire prosecution case, to implicate us in any sort of complicity in the imaginary conspiracy relating to the Army and without even taking our statement (oral or written) as required by the rules themselves the Magistrate committed us to the Sessions on several charges under Sections 131, 505, 120-B, 109 and 117 I. P. C.

And yet it was for the purpose of such an utterly baseless and bankrupt prosecution that our Vishwa Rupa Yatra ceremony was unceremoniously and sacriligiously broken in upon by the " Government" of Bombay with the " full concurrence," mind you, of the " Government" of India, and we were bundled off hither from Dakor in such unseemly haste. We were here for 8 days before the magisterial enquiry actually commenced and some of our co-accused came here a day or two after us. And yet the " Government " could not afford to lose the few hours needed for the completion by us of that momentous ceremony, prescribed for all Dandi Sanyasis ! Should not religious toleration be extended even to those whom one is politically or otherwise, sharply divided from Tipu Sultan of Mysore (whom our school histories have been vilely calumniating as a horrid prosecutor for the

SHRI SHANKARACHARYA'S ADDRESS TO THE JURY.

Hindus) was indeed a devout Muslim, but, as incontrovertibly demonstrated by the records still preserved in the Jagadguru Shankaracharya Mat at Shringeri, he was an ardent admirer of and fervent venerator of the then Shankarcharya of Shringeri and was instrumental in building tens of new Hindu temples and endowing hundreds of old ones, which had fallen into decay (physical and financial.) We are sure, he never treated any Hindu, much less a Shankaracharya, in the churlishly cavalier and cantankerously intolerant manner, employed towards us by the Imperial and Provincial Governments and the District and City Magistrates whom this case has brought us into contact with! It is not the indifference of the man who has no Religion influencing his every act, but as the considered and deliberate toleration (*on principle*) of a devout believer in and strict follower of one religion towards similar devout believers in and strict followers of another religion, that alone deserves the name of Toleration. Judged by this crucial test, a Tipu Sultan comes of infinitely better than the present British Government of India, notwithstanding Lord Reading's effusion about religious toleration.

Let us state it plainly, now and here, that even if we had ever any doubts about the absolute moral impossibility of co-operation with the present heartless, soulless and godless system of Government in India our actual first-hand experience of it, through the present case, must necessarily cure us, once for all, of all such doubts and make us a still more confirmed non-co-operator than we already were. Can Lord Reading, with a clear conscience, honestly claim that, in the matter of that ceremony of our at Dakor and particularly as regards the high-handed magisterial exclusion of our oral statement because our Religious rules precluded us from standing and addressing the Court, we can, in actual practice, trace out the least vestige of that Religious Toleration and Equal Justice which he has been so magniloquently parading before all and sundry. And, if so we must ask him "What is Toleration and what is Justice?" And, unlike jesting Piltet, we shall wait for an answer! Surely, an ounce of practice is better

than tons of theory !!

It will be remembered that, like the Pilgrim Fathers who wended their way to the rock bound coasts of America on board the Mayflower for enjoying the Religious Liberty which England denied to them during the time of that "wisest fool in Christendom" (King James VI of Scotland and I of England,) the Parsis too came centuries ago into India for enjoying the religious Liberty which their own motherland (Persia) denied to them and they found under King Yadav of Gujrat, not merely spiritual liberty but also such compassionate temporal patronage and loving material encouragement as to become one of the most flourishing Communities in India to-day. And, year after year they still pay their tribute of grateful praise to King Yadav therefor. What a grim irony of fate was this, then, whereby a Parsi became a tool in the hands of the British Government, forgot the debt that his entire race owed to the tolerant and benignant Hindu King Yadav of Western-India, and showed such intolerance towards the Apostolic Successor of King Yadav's revered and beloved Guru as the Ecclesiastical Head of Hinduism in Western India.

In fairness, however to the City magistrate and in extenuation not, of course, in justification of his ungentlemanly and intolerant conduct towards us, we must say that he too (like the District Magistrate) would seem to have weakly succumbed to official orders or the prejudice engendered by the above-described calumnies circulated by the Bombay Government about our being "Imposter"! And that alone is a sufficient commentary on the ethics of the Government!!

And we must, also, not omit to testify that the one cheering ray of light in all this dismal darkness is the consoling fact that excepting one Abdul Karim of Madras and barring a few trifling and inconsequential white lies (seemingly due more to mechanical habit than to deliberate intention) the police and other witnesses in the first i. e. the precommittal stage, told the truth on the whole and did not (as we had

SHRI SHANKARACHARYA'S ADDRESS TO THE JURY.

originally inferred at Dakor) fabricated any evidence which would have been of real help to the Government in its God-forsaken mendacious compagin against us. And we may also add that, on this one promising foundation, we joyously base our sanguine hopes for India's Glorious Future.

VI—THE ORDER OF COMMITMENT.

It was a most wonderful order of commitment whereby the City Magistrate washed his hands of us and passed us on to the Sessions Court for trial.

In the very first paragraph we note that whereas the original complaint lodged against us by the Deputy Superintendent of Police, Karachi (Exhibit A) mentions only 4 Sections, the Committing Magistrate begins his Committal Order with the statement that the *complaint* is under 5 Sections. We do not meddle with his right to add any number of Sections off his own but, we do demur to his misrepresenting the contents of the Exhibit in question.

The second thing to be noted is that, while translated extracts are given from the vernacular speeches of the others, *we* are only said to have made a speech (without any allusion to its contents.) thus keeping up the Crown's conspiracy of silence on this point.

The third remarkable factor is a reference to the accuracy of the translations filed in the case. Let it be remembered that, when Moulvi Hussain Ahmad Sahib (Accused No 2 and the mover of the Resolution) began the very first sentence of his oral (defence) statement in the Court, the Court translator (who is said to be one of the very best man available in all Sind for translating Urdu into English) broke down utterly at the very outset and confessed himself hopelessly at sea; that these proceedings came to an abrupt standstill in consequence thereof and that an Urdu translator has therefore been requisitioned from the Punjab High Court for the Sessions trial. May we ask if the c. i. d. reporters at the Conference are alleged to have higher

TRIAL OF ALI BROTHERS & OTHERS.

educational qualifications than the government's own best translators ? and how are we to believe (1) that the poor fellows could have understood such Resolutions and speeches correctly and (2) that convictions based (as they always are) on such reports can be justly and morally upheld ?

The fourth astounding element is the magisterial series of statements (1) that all the other accused (i. e. Nos. 2 to 7) " either admitted or did not deny " allegations of the prosecution, that they refused to answer the questions put to them, (3) that they wanted to give a statement similar to Mr. Mahomed Ali's and (4) that their statements were irrelevant. Compare this unqualified statement with the magistrate's own admission lower down that for religious reasons, *we* refused to answer him standing and he therefore refused to hear us and record our statement. This reminds us of an Irish case wherein the defendant who had been called upon to pay the price of a costly Chandelier which he had borrowed and broken was told by his lawyer of three possible lines of defence (which he might get his witnesses to substantiate) and so, to make his case trebly strong, gave all the three statements together i. e. (1) " The Chandelier was broken when I borrowed it " (2) " It was whole when I returned it " and (3) " I never borrowed it at all. "

As a matter of fact we repeatedly stated to Mr. Talati that he should at least record our statement that we were not going to deliver a political or even a religious lecture and that we meant to confine ourselves rigorously to the evidence adduced by the prosecution witnesses but that not an iota of evidence against us was on record for us to rebut. The local Indian papers reported this incident, but the magistrate had dictatorially ruled us out of court altogether (except of course, for the purpose of commitment) and did not record even that one statement. Under such circumstances, the statement that we " either admitted or did not deny " this or that allegation, can only be compared to the claim that one who had been killed " either admitted or did not deny " some particular charge.

SHRI SHANKARACHARYA'S ADDRESS TO THE JURY.

Fifthly we wonder why we were charged with conspiring between February and September 1921 ? The only evidence of " Conspiracy " adduce is the public resolution of 9th July and our speaking there at. And so far as we can calculate, 9th July 1921 is even more accurately between 17th January 16,000 B. C. and 31st December 16,000 A. D. than it can be between February and September 1921. We may however dismiss the whole commitment proceedings with the pathetically manifest truth that Mr. Talati is a good but weak man who has either bent before the orders of his masters or yielded to the prejudices sedulously generated and fostered by them. We prefer to believe the former.

VII—THE POST-COMMITTAL ENQUIRY.

We now pass on to the Post-Committal Enquiry on the 21st and 22nd October 1921 by the City Magistrate whose chastened behaviour therein showed, at every step, that as Mr. Talati he was a good man but as the City Magistrate, he had shown himself too weak and plastic in the hands of the authorities above him and deserved more pity than condemnation at our hands. The only witness relating to our part of the case in this supplementary enquiry was one Basarmal who came in, at long last, to file as Exhibits his shorthand notes and his long hand transcript of our second speech in the Khilafat Conference here in July last. In this connection it is curious to note this witness and one Topandas had both been mentioned by name as prosecution witnesses in the very first complaint of Mr. Zaman Shah (the Deputy Superintendent of Police) and were again specifically named by him (in his opening evidence as the first witness on behalf of the Crown) as the persons who had taken notes of *our* speech, but they were not at all called in during the entire enquiry. On 30-9-1921 i. e. after our committal, the Public Prosecutor had informed the Court in writing that both of them should be allowed to come in at the Sessions trial; but on 21-10-1921 when the supplementary inquiry began, it was stated that only Basarmal was going to be examined.

TRIAL OF ALI BROTHERS & OTHERS.

And when he was called, it was alleged that he had come without his notes and so had gone home to bring them "To-morrow"! When it was pointed out to the Court, on the next day, by ourselves and Moulana Mahomed Ali that the production and examination of this witness at that stage after the continued and deliberate omission thereof in all the earlier stages looked suspicious and needed explanation. Mr. Talati readily called upon Mr. Elphinston to explain. And the explanation that he gave was (1) that he had not first thought this witness's evidence necessary and had dispensed with it and (2) that, in our statement (which the magistrate had refused to record because we were seated) Mr. Elphinston had understood us to say that we had not spoken about the Army part of the resolution and so he felt it now necessary to put the speech in *for the benefit of ourselves and for the jurors to draw such inference therefrom as they might!*

Mr. Mahomed Ali wanted to know if the keeping back of this witness and this most important Exhibit was because the Government had desired to convert us, detach us from the others and let us off and therefore, in the meantime, did not produce any evidence against us except the superficial one about our having attended and spoken? As such tactics have actually been attempted with regard to Pir Saheb (Accused No. 4) and as his speech too (although admittedly and forcibly about the army) was not filed and has still not been filed as an Exhibit, there is reasonable ground for suspecting that the same consideration (*i. e.* the hope of being able to win us over) was responsible for the original non-filing of our speech as an Exhibit! Add to this the fact that *after our committal*, Mr. Girdharlal of Amritsar had made it clear to the District Magistrate of Karachi that, in the performance of our Dharma, we had actually braved and confronted and not been cowed down even by the display of bayonets and fire-arms against us at Amritsar and were therefore incapable of being converted by the fear of a comparatively petty trifle like imprisonment of either sort or even transportation! This strengthens the suspicion that Mr. Mahomed Ali gave expression to and may be held to explain why this evidence was deemed necessary

SHRI SHANKARACHARYA'S ADDRESS TO THE JURY,

after our committal and after the final renunciation of all hopes of an apology or even a retraction from us !

But there is this great and tremendous difference between our case and Pir Saheb's *i. e.* that while he had spoken strongly on the army question and he even now justifies it from the Koran, we had not even known about that subject and had said nothing about it and had no need to say aught in our defence statement about the army (unless, indeed, we now voluntarily choose to do so for our own satisfaction and pleasure). We therefore feel it necessary to look for some more plausible explanation. And like the plain blunt person that we are and ought to be, we would put it to the Court that, leaving out of account the preliminary incubatory period of triangular correspondence (between Simla, Bombay and Karachi) and counting only from the 8th of September (the date of the complaint and the warrants) the prosecution would seem to have been nursing and cajoling and threatening and otherwise striving to persuade poor Basarmal and Topandas (the only English reporters in the case) for over 45 days to concoct false evidence against us and to have failed therein. On any other hypothesis we are unable to understand the prosecution's omission even to produce these witnesses. But the Crown prosecutor had apparently consoled himself with the expectation that, as a militant non-co-operator and like Mr. Shoukat Ali, we would justify the Resolution on the Army question on political grounds and convict ourselves out of our own mouth thereby. And so Mr. Elphinston seems to have spoken the truth in saying he had first thought it "unnecessary" to produce these men and file our speech. Why was it necessary, may we ask, to produce others' speeches and not ours ? But when we actually begun our statement in the lower Court with the declaration that we were not going to deliver any political or other harangue and would rigorously confine ourselves to the evidence adduced but regretted that not a word of evidence had been let in against us which we could base a cross-examination on or need defend ourselves against, the shock of the disappointment

TRIAL OF ALI BROTHERS & OTHERS.

must have been tremendous indeed. But the Magistrate came unexpectedly—and we hope unconsciously to the Crown's rescue in that horrid predicament by refusing to record our evidence for the reason already dilated on! And the counsel quietly took advantage of it by passing us over lightly in his argument which, be it noted, was *after* we began our statement and were prohibited by the Magistrate. If the Crown had really meant as now claimed, to file our speech *for our advantage* before the Jurors, it should have done so at the very outset. Or, if, Mr. Elphinston had been honestly ignorant of *our* honest ignorance of the details of the original (conference) proceedings, he should have, at least in his argument, in the lower court, considered our clear contention about it and referred to it and corroborated it with our speech and not taken mean advantage of the Magistrate's refusal to hear us and record our statement! As a matter of fact, however, we had *not* really denied before the magistrate, that we had spoken on the army but merely stated that no evidence against us had been produced for us to rebut, when he stopped us. It is therefore plain that Mr. Elphinston's present explanation did not really record his impression of what we stated, but only revealed what he had himself known all the time but had not been candid enough so long to admit. As we had not actually said it, his impression cannot have been due to our words and must certainly have arisen from some other cause. And what cause could be more natural than his own inner consciousness of the truth?

And when at last it is decided to file our speech, the procedure still continues to be unnaturally erratic! Only one of the two witnesses is called and he too "forgets" to bring his all important notes of our speech. Imagine "Hamlet" being staged and Hamlet alone of the "*Dramatis personae*" being forgotten, or a marriage taking place with the bride and the bridegroom alone absent! Under these circumstances we find it impossible to resist the conclusion that an unwilling witness is long pressed to give false evidence, struggles hard against it to the last and finally

SHRI SHANKARACHARYA'S ADDRESS TO THE JURY.

triumphs ! For, though his report is woefully incorrect and muddles up the Purans and the Gita and replaces Hengist and Horsa by Henry and Robert and so on and is therefore utterly valueless as an instructive or even co-herent epitome of our speech, it is obvious that the errors arose from a weak memory and from sheer ignorance of the Hindu Scriptures on the one hand and of the History of England on the other and not from any malicious inclination or fabricative genius at all ! Any intelligent person who reads it alongside of the newspaper reports of our speech and the first part of this statement (which we had prepared within two days of our arrival here i. e., on the 20th September when we had not yet heard from our local friends about the army part of the Resolution) can easily see that it is peculiarly jumbled up and in accurate but honest report. We have therefore once again to offer our hearty congratulations to the police witnesses (except Abdul Karim of Madras) for their having clung, on the whole, to the truth !

Now, as this report too corroborates our contention that we never spoke about the Army, it is an interesting speculation why the Crown had filed it at all, why (in this instance alone) the shorthand notes too have been put in, whether it is really (as claimed by Mr. Elphinston) for our benefit before the jury or really for showing that, although we did not speak about the Army and although we had paid our tribute to Mr. Montagu as the one minister who fought hard for the Khilafat cause against tremendous odds but was powerless to influence the rest of the Cabinet, our strong condemnation of Mr. Lloyd George's acrobatics with regard to the Khilafat should turn the jurors against us and so on. As, however, this is an idle and aimless speculation, we do not care to go thereinto but would and need only point out that in case the last conjecture is correct, it *might* be open to the police to indict us on some other charge (say, seditious preaching) but it would certainly not be within the authority of the court to convict us under Sections 131, 505, 120-A and so forth !

VIII.—THE SESSIONS TRIAL.

We need to say—only a few words about the Trial in this Sessions Court. We were astounded to see the proceedings opening with drastic alteration of the charges framed by the City Magistrate and an addition thereto all calculated to enhance the gravity of the offence and of the punishment (in case of a conviction). We do not, of course contest the Court's powers to do this under Section 227 of the Criminal Procedure Code, but we do contend that the charges were all terribly prejudicial to us, that there was not a scrape of evidence before the committing magistrate in support of these charges, that this was merely a commonflage of the prosecution to produce (under section 231 C. P. C.) new witnesses who had not been produced in the lower Court (whether *before* or *after* committal), that even after taking advantage of Section 219 C. P. C. for a post committal magisterial examination of supplementary witnesses the prosecution had failed to adduce any evidence in support of these amendments and was adopting this "oute" but mean trick for getting illegally admitted lots of inadmissible new evidence and that under such circumstances, the adding and amending of the charge under 227 C. P. C. and proceeding immediately with the trial under 228 C. P. C. are, in the words of the great commentator Sohini, *ultra Vires* and are not merely errors of procedure but an improper assumption of jurisdiction. There are lots of recorded cases supporting this contention, e. i. 6 Calcutta Weekly notes 73; 1899 Allahabad Weekly Notes 39; 31 Bombay 218; 5 Allahabad 233; 29 Calcutta 415; 6 Bombay High Court Reports of Crown cases 76 and 3 Madras 351. And of these, 3 Madras 351 is on all fours with the present case and ought to have been followed here. It is distinctly laid down under 228 C. P. C. that a Court of Sessions cannot take cognisance of such charges without commitment thereupon. The object of this restriction is to secure, in the case of persons charged with a grave offence, a preliminary inquiry which would afford them the opportunity of becoming acquainted with the circumstances of the offence imputed to them and enable them to make their defence pro-

SHRI SHANKARACHARYA'S ADDRESS TO THE JURY.

perly. And, similarly, where the alterations in or additions to the original charges would raise different questions of law or would submit of a different defence on the facts, the Court should always act under section 229 C. P. C. suspend or postpone the trial and given the committing magistrate an opportunity to make a further inquiry.

And especially with regard to the changing of February 1921 to February 1920, it must be stated that the report of Mr. Surendra Nath Sen of the Assam C. I. D. about Moulana Shoukat Ali's speech of 6th March 1920 at Karimganj (which the Public Prosecutor sought to put in at the post-committal magisterial inquiry of so late a date as 22nd October 1921, but which the magistrate refused to admit as evidence and of which, therefore, Mr. Elphinston gave us copies privately "as a matter of courtesy" as he pretended)—this precious report has been further supplemented on the opening day of the Sessions Trial (i. e. 24th October) with a reference to some Calcutta Town Hall resolutions of 29th February 1920 and is the basis for the alteration of February 1921 to February 1920. Surely, it is a revoltingly horrid and shamelessly unrighteous lie to say that this change is one which is justified *on the facts already before* the magistrate. The expression "*on the same facts*" in this Chapter of the Criminal Procedure Code is most important but has been quietly thrown overboard by the prosecution. The charges therefore, are wholly illegal.

And particularly in a conspiracy case wherein it is sought to catch, in a wide net, all sorts of persons who may not have known anything of such facts or even one another (as Mr. Elphinston argued in his opening speech), it is particularly laid down that such changes are absolutely *ultra vires* and without jurisdiction, (without a retrial) !

In *our* case the prosecution has adduced absolutely no evidence to show any sort of connection between us and any conspiracy relating to the Army. The only evidence before the Court in respect of us is that we attended and spoke at the Khilafat Conference sitting of 9th July last at Karachi ; but even the report of our speech there (as filed

by the prosecution itself) does not contain even one word about the British Army !

Nor has the prosecution let in any documentary or even oral evidence to show that we are even an *ordinary* member of the Central Khilafat Committee or any of its District, Taluka, Village units or even of the subjects Committee or that we were ever anything more than an honoured guest and patron giving our blessings to Hindu Muslim unity and the Khilafat cause. And yet the prosecution has sought to involve us too in the meshes of its wide net. We contend therefore that the alterations are *ultra vires* with regard to all the accused in general and with respect to us in particular.

In passing we would like to mention that the Jury too seems to have been empanelled in a manner not permitted by Law. We refer to the fact that amongst the persons called for the purpose there were some Goan gentlemen who are not British Indian subjects and, amongst the five actually selected, we believe there is one such gentleman. It is no *moral* answer to this to say that we did not challenge his selection. That would be like meeting a charge of adultery with the plea that the woman had consented or had been asleep or unconscious; or a charge of theft with the plea that the house had been carelessly left open. We wish to make it clear that we have absolutely no objection on any score whatsoever to Goan people as such and we do not ourselves believe in the sacrosanctity of the rule restricting the jury to British Indian subjects alone, nay we positively feel the utmost cordiality towards our Goan friends, particularly if they are devout and God-fearing Roman Catholic Christians as we understand them to be. Our only object in alluding to this fact is to illustrate and demonstrate how difficult nay impossible, it is to get our British Indian Courts of Law to observe their own rules and to voluntarily administer Justice unless and untill—either by our challenging of their actions and procedure or owing to considerations of policy and diplomacy of the usual

SHRI SHANKARACHARYA'S ADDRESS TO THE JURY.

devious character—they are helplessly *compelled* to do so by some process akin to a surgical operation. In fairness, however, to the judicial Commissioner we feel it our duty to record the fact that when he clearly understood our *religious* position and the rules of our order of Sanyas precluding our standing before him he specifically exempted us therefrom and that we ourselves voluntarily elected to abandon our chair and sit down with our co-accused.

Passing on to the Crown Prosecutor's argument in this Court, we have to say in the first place, as regards the logic of it generally in trying to establish the fact of a conspiracy that we never heard a more illogical kind of logic than that. The whole logic of it pushed to its logical consequences would result in the *reductio ad absurdum* that all who belonged to the Central Khilafat Committee or any of its branches, all who ever associated with poor Mahomed Ali (without the honorific "Moulana" or even the gentlemanly Mr.) all who attended a single Khilafat Conference during all the centuries (past, present and future) and including the Police and other reporters there) all who were in the Subjects Committee of any such Conference and even all who arrived by the unfortunate Quetta Mail on a certain fateful day in July 1921 at poor Karachi—and many other kinds of people whom we have neither the time nor the inclination nor even the power to describe in detail, were *ipso facto* conspirators under 120-A and culprits under 131, 505 and the rest of the family. As it is impossible to go in detail into all these ridiculous absurdities, we will consider only one of them i. e. the Subjects Committee. Is the Crown unaware that resolutions are passed at the Subjects Committee after a lot of discussion and the final shape arrived at is generally very different from *every one* of the proposals made therein and can only be described as the Mathematical Result out of innumerable Forces? And *no one* is individually responsible therefor while *every one* is bound to abide thereby. And even the President (unlike our Viceroys, Governors and even petty Magistrates) has no vote and must necessarily—as President—introduce before the meeting and put to the vote every resolution (even those which he may personally be opposed to). It is therefore (morally as well as legally) unrighteous and illogical to foist the blame on any one, unless—by independent proof and evidence—it could be shown that he had pressed for it in that identical shape and voted for it in the Subjects Committee. It would be absurd to argue that when a majority carry a proposition that one does not like, one should resign immediately. That would mean the immediate disruption of all Parliaments, cabinets, Legislative

TRIAL OF ALI BROTHERS & OTHERS.

Councils and even Executive Councils and so on. So the prosecution should have proved who in the Subjects Committee pressed for the Resolution in question in the identical form which it ultimately took and then prosecuted *them*. In reality we find Crown in the desperate predicament that it had no evidence to show who attended the Subjects Committee except that Moulana Shoukat Ali's voice was heard somewhere in that part of the country or the world and that the voice was recognised as his, because, mind you, he was fat. Surely this is an achievement which great modern scientists engaged in the fields of Acoustics will envy our Karachi policemen for; but this is no evidence according to any Evidence Act on Earth (Except perhaps that of the French Resolution wherein a person who was suspected to be suspected to have been suspected (raised to the N power, (being perfectly indeterminate) was immediately guillotined without any further evidence). And if it be argued the gentleman admit their approval of or sympathy with the resolution, even then we have to say that even a confession is no evidence without independent corroborative testimony. And besides, the expression of sympathy with or approval of any opinion—however anarchical—is not indictable under any section of the Indian Penal Code. It is not opinions, for which prosecutions stand. And so long as the acts are not proved, the detached and abstract opinions have no legal value.

Owing to the Crown Counsel's logic about our special and individual part in the alleged conspiracy, we must say that it was the most vicious example in our experience of the vicious practice of arguing in a vicious circle and begging the whole question at issue. We have already exposed the utter bankruptcy of the prosecution in the matter of actual positive, relevant evidence with regard to us individually, the consequent stabbing of us from behind with libellous communiques and circulars, the non-filing of any speech of our to start with because there was nothing in it to connect us with the army question and the police witnesses refused to lie and perjure themselves, and the final desperate filing of the available report with a view to make the best of a bad bargain. It was this terrible lack of facts which, in all our case generally and in our case particularly, drove the counsel to admit in desperation that presumption was such and such. We quite agree not merely that it was a presumption, but that it was the very height of presumption to presume things and to ask the jury to presume things for which not a scrap of evidence was forthcoming. And how was our knowledge of and participation in the alleged conspiracy proved? By our sympathy with the Khilafat cause! And how was that proved? By our knowledge of and participating

SHRI SHANKARACHARYA'S ADDRESS TO THE JURY.

in the conspiracy !! What else is this, gentlemen, but argument in a vicious circle ?

Mr. Elphinston had the presumption to cast libellous aspersions on our veracity, not on the strength of any facts he had proved or evidence he had adduced but his presumption that we *must have read* particular newspapers (if not also C. I. D. reports) which he was going to file three months later in a false case against us. Let us inform Mr. Elphinston that, until the Government (whose business it is to tackle the problem of unemployment) actually threw us *out of* employment on the 16th September last by arresting us, we had normally very little time for reading newspapers and particularly to waste time on the reading of our own speeches. With our prayers, our elaborate Poojahs (worship) our regular classes for our pupils (in Sanscrit Literature, Logic, Astronomy, Philosophy etc.) our incessant public lecturing work our correspondence (which we write with our own hand and which as our records attached by the Government can prove works out at daily average of about fifty letters which are more of the nature of lectures and dissertations than letters) and our work of answering the questions of pilgrim visitors and worshippers at our shrine and other inquirers we are fully occupied from 3 A. M. to 10 P. M. and then we read our newspapers between 10 and 11 P.M. seeing only the telegrams, the leading articles and important fresh material. Even this we do with the utmost difficulty, because we are completely done up long before that hour, and when during conference times, we are called upon to sit continually for hours in the Pandal and especially when there are night sittings, we find that they are urgent letters to be got through at midnight and, jaded as we are, we have not the physical capacity (even if we had the wish) to prefer the "Daily Gazette" of Karachi to "sleep gentle sleep, Nature's soft nurse" It must be remembered that, as the Jagadguru Shankarcharya we are continually called upon by inquirers (in person and by post) to answer an infinite and multifarious series of questions relating to Ceremonial matters of faith (like prayers, worship, marriages, funerals, oblations to the sacrificial or the household fire etc.) political matters (like co-operation, non-co-operation etc.) social matters (like Basu's inter-race marriage Bill, Patel's inter-caste marriage Bill; Gour's marriage Bill; The Depressed classes Problem etc.) and so on. And we have to answer all such questions, remove all such doubts and difficulties and cannot—like the Commercial West or even Mr. Ross Alston, or Mr. Elphinston—say that we do not receive Rs. 3000 per day or per month and cannot do all this work. It is our duty and we have to and do perform it as such. Having there-

fore very little time for and great difficulty in, keeping ourselves in touch with the progress of the world in the shape of fresh news, we certainly do not normally find it possible to read stale news in the shape of our speeches. And even granting that we could have read local papers and if it should have been the "Sind Observer" we would have according to the prosecution evidence itself—got no information on these matters. As a matter of fact however, we read no local papers as we had not the time to do so. And on a matter of actual fact like this, it must be obvious to any unprejudiced person that *our* simple statement of facts should have a million times more moral and even legal value than the presumptions and most heinous aspersions and illogical inferences of persons whose very presumptions are paid for at the rate of thousands or at least hundreds per day.

The most offensive and atrociously false part of the Crown Counsel's argument was the imputation that we were trying to get out of the consequences of our action by denying knowledge of the army part of the Resolution! We wonder what right Mr. Elphinston (who never saw, knew or heard about us until we came into the relationship of Public Prosecutor and Public prosecuted) has, to say aught about our courage or cowardice! It is just because we do not care for or fear what the police may report of our speeches, that we read fresh news of the world and do not worry about reports of our own past speeches! And besides, the very speech filed by the prosecution and made so much of by the counsel, will show how we wanted all the 330, millions in India to go, if necessary, into Jail for the sake of Dharma until, at last the jails could not contain them! And yet we are accused of cowardice! If, however, he is inclined to think that, that was merely tall talk and bravado, we will make a present to him of the fact that when, in April last, the Sikhs of the Punjab invited us to Amritsar to arbitrate on a purely religious controversy between themselves and the Sanatanee Hindus, and the Deputy Commissioner and the D. S. P. issued orders prohibiting our speech on "Dharma" under the Seditious Meetings Act (X of 1911), we refused to admit the authority of any temporal government to gag us in the performance of our Ecclesiastical duty and drove a coach and pair through their orders, and when the D.S.P. with his Deputy and two Assistant S. P's., posted themselves with about 25 armed mounted men with fire-arms and bayonets, within 60 yards of our quarters, to prevent our proceeding to the meeting, we drove straight on, braving all their murderous military display! And then the D. S. P. etc. bit their lips but they durst not lay violent hands on us as threatened. How ignorant must Mr. Elphinston be of our character and our frame of

SHRI SHANKARACHARYA'S ADDRESS TO THE JURY.

mind to say that we who braved and confronted fire-arms would be afraid of his prosecuting and clapping us into jail. From this Amritsar incident, he may perchance think us even more dangerous and dare—devil than he had originally deemed us to be, but we hope that it will at any rate cure him of his hallucination about our insincerity, timidity and desire to escape the consequences of our speech ! Let him learn now at least that like the Highland Chief Roderick Dhu (in Sir Walter Scott's *Lady of the Lake*), we can only say :—

“Thy threats, thy mercy, we defy,
Let recreant yield who fears to die.”

Why then did we say that we had not known, until our arrival at Karachi jail about the army part of the Resolution ? Solely because it was the fact and we could not—even for the sake of bravado or popular applause—pretend to have known what we had really not known.

The fact is, as the prosecution evidence itself has shown, we went to the Subjects Committee's sitting at 11 a. m., *i. e.*, just when (according to the prosecution evidence) it was breaking up. We attended part of the day's session and left at 2 p. m., to re-attend the night sitting at 11 p. m., thus obviously having been absent in the evening session too of the Subjects Committee. And when we did come to the Pandal, Dr. Kitchlew was on his feet. We asked him what the next speaker was speaking about and he said the subject was “Angora” and so we spoke on the Angora Government after an introduction about Hindu—Muslim Unity and the Khilafat, as our speech will clearly show. And this does not mean that Dr. Kitchlew “Vilely deceived” us (as the Crown Council suggested). It is usual to describe long Resolutions with such short headings as Swaraj, Non-co-operation, Angora etc., resolutions and Dr. Kitchlew followed the usual and natural practice. And besides Dr. Kitchlew could not have any desire to cheat us, because he did evidently more than Justice to the government and we now find that the government (which is capable of prosecuting people for their religious faith) did not deserve it ! Going from the external to the internal evidence it is clear that our speech itself proves our absolute ignorance of the army question being on the *tapis*. It will be noted that, of the three parts of the resolution, we said nothing about the first part *i. e.*, Kemalist Victories or the second *i. e.* Army but only about the third *i. e.*, Angora. If we had known the existence of the other two parts, our whole speech about the Purans and Adi Shankaracharya etc., was wholly irrelevant to the Resolution on hand. This very irrelevancy is the clearest possible proof of our ignorance of the first two parts.

TRIAL OF ALI BROTHERS & OTHERS.

The Crown Counsel laid all imaginable emphasis—having nothing else to go upon—on our being a political agitator and a sympathiser with the Khilafat. May we say that, in the matter of our sympathy with the Khilafat, we are conspirators with Mr. Montagu and the Government of India (including Lord Chelmsford and Reading) and that, as regards our being a political agitator, in the memorandum (just published by Lord Reading) even Lord Chelmsford (who, as even the Anglo-Indian ‘Times of India’ admitted, left India unhonoured, unwept and unsung) plainly said : “India sincerely wishes to remain within the empire but only on terms of equal partnership. Her own self respect requires it that she shall not be in a position of inferiority” and that therefore Lord Chelmsford is our co-conspirator in our political agitation about Swaraj and Republic and so on.

Finally we would point out that, apart from the external and internal evidence, there is one unanswerable reason why we *could not have* known about the Army question at the time of the conference. And that is that, whereas the Islamic Law was explained by Hazrat Moulana Bari and other Ulema who would seem to have clear cut answer on Muslim sepoys in the Army, Hindu religious law (as we shall show presently) is intensely complicated on the question of Hindu sepoys in the army and we could not give an answer off-hand ! Mr. Gandhi may consider these questions from the stand-point of politics—cum—Religion generally, but we have to give our interpretation of the Hindu scripture from the spiritual stand point alone ! As John Stuart Mill says : “999 persons have no more right to coerce one person than one man has, even if he had the power to coerce 999.” And therefore our position is that, unlike the Crown Counsels who are heavily paid for their presumptions we could not have the presumption to uphold or condemn the deliberate opinion of the Ulema on a matter of Islamic Law but should frankly have stated that we were ignorant of Islamic Law and should merely have asked Muslim to be faithful to Islamic Law just as we would have wished and asked Hindus to obey the behests of Hindu Law. And even to please our Islamic friends on the one side or to oblige Mr. Elphinston on the other, we could not have taken any other course. We need add no more on this point of fact, notwithstanding all the presumption of the prosecution.

IX.—THE ARMY QUESTION.

FROM THE HINDU SPIRITUAL STANDPOINT.

Apart, however, from the fact that we never spoke or even knew

SHRI SHANKARACHARYA'S ADDRESS TO THE JURY.

in July last at Karachi about the Army question and that, far from our having participated in any conspiracy, we have really, on the other hand, been the victim of a huge Government Conspiracy against us and our Peeth and although the Army question has no direct bearing on our part of the case, we still feel it our duty to go briefly into this question too (of Muslim Sepoys) on its own intrinsic merits as usual from our own characteristic Spiritual standpoint. But, before doing so, we would just point out that section 7 (2) of the English Army Act 1881 ; 44 and 45 Vic C. 58 applicable to India under Sections 131 and 505 I. P. C. and the similar English Enactment 37 George III C. 70 amended by 7 Will. IV and 1 Vic. C. 91 clearly defines the "seduction of a soldier from his allegiance or duty" as *an act amounting to treason* and definitely, expressly and categorically exclude therefrom "even insubordination and disobedience, how-much-so-ever-flagrant." (*Vide Pindidas* 1907 Punjab Weekly Reporter Cr. 37) and, secondly that according to the terms of the Exception Clause of Section 505 itself, if a report is circulated in the belief that it is true and without intent to incite Mutiny, sedition or disturbance of the public tranquillity but only with the object of advising a friend for his own betterment or of cautioning a co-religionist (or a body of co-religionists) against incurring religious impurity or sin then the accused is exempt *irrespective of the consequences* (*Vide* Dr. Gour's edition of the I. P. C. pages 735 and 2432 and Gazette of India 1898 Pt VI). And, consequently it is obvious that a straight forward resolution of the openly and admittedly *Religious* character in question and with the *Religious* motive described is evidently *not* within the purview of actionability under these enactments at all. And besides no one has asked the sepoys *to continue in the army* and there mutiny or fail from allegiance or duty and calling upon them to leave the army in favour of a similarly more paying or religiously less impure profession is manifestly not indictable under section 131 or 505 I. P. C.—nay, is positively exempted, as just afore explained, by the exception Clause of section 505 I. P. C. This, however, only in passing.

Turning now to the intrinsic merits from the purely spiritual standpoint, we had already stated our conviction clearly that God-made Law and Man-made law must, as far as possible, be harmonised; but, if a radical, diametrical, fundamental and irreconcilable antagonism arises between the two, *it is the man-made law that must necessarily go under*. In the clinching words of Antigone to

TRIAL OF ALI BROTHERS & OTHERS.

the tyrant Creon of Thebes (in Sophocle's Tragedy of Antigone):

“Nor do I deem
Your Ordinance of so much binding force
As that mortal man could ever bear.
This is not of to-day and yesterday
But lives for ever, having origin
Whence no man knows: whose Sanctions I were loathe
In Heaven's sight to provoke, fearing the will of *any man*.”

This is why, in the light of further and further study and experience, the man-made law of the realm is and must be changed from time to time, whereas the basic principles of Religion i. e. Truth and Justice—can never be discarded or even diluted but, like God's Mercy (as sung by the Hebrew Psalmist) “endureth for ever.”

Passing on from the Pagan or Classical Greek literature to the Hebrew Scriptures, we must first note that the Mosaic Pentateuch (i. e. the Books of Genesis, Exodus, Leviticus, Numbers, and Deuteronomy) clearly enjoin that kings too are bound by the Divine Law and prescribe, with considerable wealth of detail, the “Sin offerings” and “trespass offerings” they should offer in expiation of their sins and trespasses against the Mosaic Covenant. Rightly, therefore, says Mr. Paul Scott Frower—in the course of an article in the “Atlantic Monthly” that “the Jews, through innumerable transmutations of time and place, have not only kept their identity as a people, but have opposed a vigorous, if passive, resistance to most attempts at assimilation” and that “sturdy monotheism of Israel teaching that man shall obey Jehovah alone carries by implication the idea that all *merely human* authority i. e. not having its sanction in or conflicting with Jehovah's is unjustified and therefore negligible. And, finally, we observe that the very fact that an endless galaxy of kings like Saul, David, Jeroboam, Zedekiah etc., in Judah and Israel, was severely rebuked and even thundered at and against by a fearless succession of noble Prophets and Seers like Samuel, Nathan, Amos, Jeriah etc. did or did not pay heed thereto and was consequently saved or swept of and annihilated, is the clearest possible proof that, according to Hebrew theology too, the law of the King of Kings is above that of His petty creatures drest in a little brief authority and intoxicated thereby.

As for the New Testament Dispensation, we learn from the Gospel of St. Luke (III, 14) that John the Baptist too preached this simple Truth that even soldiers are within the jurisdiction of the rules of Ethics and we also know how he was unjustly incarcerated and be-

headed for preaching Dharma to the incest-loving Herod. And then, we have the central and cardinal fact of the New Testament i. e. that, although the Lord Jesus Christ was by no means an anarchist and—asked men to render to God and to Cæsar what belonged to them respectively, yet his whole life was one continued plea and martyrdom for the placing of God's Law above man's. And it is, therefore, no wonder that, the Apostles St Paul, St Peter, St James, St Stephen etc follow the same path and teach us the same lesson as their Master Himself had done before them? Hence do we feel that the King-Emperor (who, by a huge legal fiction, is the "complainant" in the present case against us) even if he did not care for Queen Victoria's explanation of her title "Defender of the Faith" as *Protectress of Religion generally* and even if he did not accept the doctrine of other faiths about the supremacy of God's Law over Man's Law, should as a Protestant Christian and as the Defender of that Faith at least—accept the actual teaching and example of Christ and His Apostles as authoritative on the matter, in which case there can be no doubt as to the ultimate verdict hereon.

Apart, too, from the tenets of Religion as such altogether, we would point out that, even according to modern Civil and Criminal Jurisprudence as enunciated by the greatest Jurists of the Western world to-day, a soldier is not only under the Military Law laid down by Tennyson :—

"Theirs not to reason why,

Theirs but to do and die",

but also under the laws of Ethics. and Religion. How else, shall we account for the Allies (including England) insisting on and bringing about the trials of so many German and other "War criminals" on charges of inhumanity etc.,? If the men had no moral option but to obey the orders—however atrociously immoral or sacrilegiously irreligious—of the Kaiser and other "superior" officers, how could they be hauled up as "criminals" for obeying such orders? Surely we cannot blow both hot and cold with the same breath! And this clearly shows that, apart altogether from Religion as such, even the ultra-rationalistic modern conception of life postulates a conscience—clause even for soldiers. Or, in other words, Morality and Religion are above man-made law.

But, as regards the Government of India our initial difficulty is that

this body often shows itself "*too superior*" to Christianity and even Rationalism and all such "d——d" non-sense"! We notice, however, that a Bill which Dr. Gour of Nagpur recently sought to introduce (for the registration of all adoptions) was stoutly opposed by Dr. Tej Bahadur Sapru on behalf of the Government on the ground that the Bill was against Hindu Law and therefore could not be countenanced even to the extent of being circulated for consideration and criticism! Apart from the intrinsic merits of that Bill and whether it was really repugnant or acceptable to Hindu Religious principles, we must candidly express our whole-hearted approval of the copy—book—maxim—like principle and policy so prettily enunciated by Dr. Sapru *i. e.* that nothing obnoxious to the Hindu and other Religions should be enacted in the Indian Legislatures for the Hindus and others respectively.

And this root-principle should apply not merely to new Bills, but even to existing acts. If and when, at any time, any existing Act is found to offend against the principle of Religion generally it ought to be withdrawn altogether; and if it is offensive to a particular sect only, such a community at least ought to be categorically exempted from the sphere of its operations. This is the only moral course open to Government and Legislatures that really believe, with King Solomon (Proverbs XIV 34), that "Righteousness alone exalteth a nation."

As for Hinduism and the sepoys, we must frankly admit that the position is intensely complicated and, *pace* Mr. Gandhi, no mechanical ruling can be given. The conflicting cases of Shri Bhishma, Vibhishan, Prahlad, Akrura etc., all of them splendid specimen of godly humanity—make the problem still more knotty and naughty. And the final conclusion from the Hindu standpoint must needs be very intricate and puzzling and even impossible to deduce without a detailed and careful study of each Adhikari's case on its own individual and intrinsic merits. As this problem, however, is not actually before us for our emergent consideration at present, we do not go into it any further just now.

The case of the Sikhs seems very simple. We need only allude to the striking incident in the life of Shri Guru Govindsing (the last of the Gurus, after whom the Granth Sahib is alone the Guru of the Sikhs) wherein, on one occasion, just in order to test the steadfastness of his disciples to their Dharma, the great Guru (while riding out with a number of them) merely set his bow and arrow in position as if he were intending to aim an arrow at the Samadhi (place of burial) of a Saint, was sternly called upon by the disciples to dismount immediately and explain his atrociously sacriligious conduct, quietly applauded their fearless

and impartial adhesion to Dharma, volunteered to be tried for his offence (according to the Panth rules and like the commonest of common people) by the Communal Panch, was fined Rs. 100 for that small offence of merely feigning to aim against a Samadhi, paid the fine cheerfully and rejoiced indescribably that his spiritual labours with them had not gone in vain ! The Sikh, thereofre, has to place his Dharama relentlessly above even his Dharama Guru, let alone pettier fry (like temporal rulers) as even Ranjitsing the Lion-Hearted king realised through bitter personal experience !

As regards the Muslim law, however, the present prosecutions have themselves widely proclaimed and advertised to the world the fact (which we ourselves did not know until a few days ago here and which even Prof. Vaswani of Karachi says he knew nothing of until quite recently) *i. e.* that a huge assembly of *Ulema* including Hazrath Moulana Abdul Bari Saheb of Lucknow (whom we first met at Karachi in July last but whom we had frequently heard of from many and diverse quarters as one of the greatest living authorities on the Islamic scriptures) has actually declared that, under the present plight of the Khilafat, it is "Haram" for a Muslim to be in the Army. We do not know the exact technical signification of "Haram" but we roughly guess it to mean "forbidden by Religion". We know not personally if this decision is correct but we who always insist that a Hindu shall invariably act in conformity with the Hindu Law and who further believe in Swa-Dharma for all, must certainly and unequivocally declare ourselves similarly in favour of all Muslims unquestioningly following the Muslim Law of Allah in preference to the man-made law of nobody in particular !

Apropos of the recently published new edition of Sale's translation of the Koran, the "London Times" Librery Supplement" says of the Koran :—"Every Mahomedan must learn by heart some portion of it at least, for recital in the daily prayers ; and thus, five times a day, it passes on the lips of men in every land of Asia and Africa, from Peking to the shores of the Atlantic—from Vilna and Tobolsk to Cape Town and Buenos Aires. Its claim on the allegiance of the Believer is as far reaching as its geographical extension, co-eternal with God himself, it demands absolute obedience to its injunctions in every department of human thought and activity, not only in respect of Dogma and Religious belief and practice, but equally so in the realm of *law, political theory* and such details of *civil and domestic administration*—as taxation, inheritance and the control of refractory wives and so on". These are the words, not of an Indian (or Kemalist) Nationalist, Demagogue,

TRIAL OF ALI BROTHERS & OTHERS.

Firebrand, or Stump-Orator, but of the sober literary reviewer on the Editorial staff of the "London Times", who thus most eloquently testifies to the indubitable supremacy of the Koran as the Highest Court of Appeal in *all* the affairs—Spiritual as well as Temporal—of *all* Muslims !

If, however, the correctness of the view adumbrated at the Khilafat Conferences of Gokak and Karachi, be reasonably, conscientiously and *responsibly* doubted by any body, the question will then have to be decided on the common-sense principle laid down in our Taittiriopanishad *i.e.* by an assembly of eminently learned, thoroughly devout, rigorously straight forward and entirely dependable Muslim Divines (without any artificial manipulations-like Col. Price's Purge or Lord Ronaldshay's recent so-called "public" meeting at Calcutta—for mechanically predetermining and automatically ensuring any desired political hue for the assembly).

We personally have not studied the Koran and other Islamic scriptures sufficiently to hazard any opinion on the matter ourselves (as we might freely venture to do in the case of the Bible) and we always—on *principle*—refuse to dogmatise one way or another, on a question which we have not ourselves thoroughly studied. Nor can we grant, even for a moment, the utterly and revoltingly preposterous proposition that the Karachi Police or Magistracy or Judiciary or the Bombay Government or even the *omniscient* Sir William Vincent (with the worthy Dr. Sapru) can decide such intricate and delicate problems of Islamic theological law. That would be no less ludicrous than the judgment and discrimination of a person who, needing to be treated for nephritis, pulmonary consumption or double pneumonia, selects his doctor one who knows nothing of Anatomy, Physiology, Hygiene, Pathology, Therapeutics etc. but happens to be the tallest, the stoutest, the wealthiest or the handsomest individual in that vicinity. Even as perplexing points of medicine, Hindu Law are invariably referred to the experts who have specialised in those particular branches of Science or departments of Learning, so too, should this point have been referred to the specialists therein.

But what do we actually find ? We find that, instead of adopting this only ethical, sensible and statesmanlike procedure, the Government with its pathetically cross faith in Repression (with a big R) all round (however unjust and impolitic) as its one and only remedy for all the ills of Indian life)—is prosecuting and persecuting all sorts of people and—procuring for them the benefits of cheap fame and mar-

tyrdom which we, at any rate, do not honestly feel, we have at all; in this case deserved. And besides, whereas even the Nagpur Congress Resolutions are specified as the Swaraj, Non-co-operation or other Resolution, this resolutions, is now famous all over India as the "Karachi Resolution." The Conference had failed to send its message far and wide and even we and Prof Vaswani and millions of others had never heard of it but the Government (by these prosecutions) has reached as the Propagandist Agent of the Khilafat Conference and carried to the whole world the Conference's message that it is "haram for a muslim to continue in the Army." Surely this is neither worldly wisdom nor justice but only the Royal High Road leading the Government straight to political suicide.

We find all the world in general and Anglo-India in particular waxing eloquent in condemnation of the forcible conversion of the Hindus to Islam by the Moplah rebels of Malabar. We who sincerely believe in and actually practise religious toleration are entitled to condemn them, but may we know by what right the Government of India, Bombay etc and Anglo-India have to do so? If we clear our minds of all cant and hypocrisy, all prejudice and partiality, we must honestly fail to see how and where in the Moplah's sword against the Hindus of Malabar for their religious faith differs—morally—from the Government's present prosecutions of the Indian Muslims for *their* religious faith. We fail to see how Section 131 or 505 I. P. C. is a morally nicer or less repressive instrument herein than the famous Moplah knife. We may frankly state that from the ethical standpoint we personally prefer the highway robber to the polite thief, and the murderous ruffian to the gentlemanly cut-throat. Ofcourse, tastes differ in all matters and there may be those who prefer being cheated by the smooth-tongued hypocrite to being assailed by the rough highway man. But all the same, so far as the actual cheating or murdering goes, we see no practical ethical difference between the two. Even so is the present prosecution of Islamic religious opinion, on no higher moral plane than the Moplah's persecution of the Hindus in Malabar. In our opinion it is considerably *lower*. Hence our query about the Moplah *Mote* and the Government *Beam* (St Luke VI 41-42).

When, for example, certain distinguished ecclesiastical and other leaders of the Western World to-day (Like the Rev. Prof. George Adam Smith, the great Biblical Scholar and Commentator) come forward to point out the blemishes in modern Christendom, and in the sacred name and under the binding authority of the Lord Jesus Christ Him-

TRIAL OF ALI BROTHERS & OTHERS.

self, denounce the Divorce Laws etc, of Europe and America as wholly unchristian, surely it is inconceivable that the so-called "Christian" Government of England, not content with trampling in actual daily practice—on the noble teachings of Christ, can also proceed further and prosecute and otherwise persecute those learned Divines who are for faithfully obeying Christ and not merely for hypocritically naming Him.

It is clear then that there is a considerable body of Islamic Theologians in India who declare it. "haram" for a Muslim to continue any longer in the British Army. If the Government honestly and sincerely thinks otherwise, its method of persuasion should not be the hatred and persecution of all and sundry who take or, like the Gerondins of old (in the days of the French Revolution) are even suspected to take, the opposite view, but only the threshing out of the question dispassionately by the theological leaders of Islam and arriving at a *bonafide* settlement based on *their* conclusions. Any other process will not only not be a sample of the Equal Justice whose importation at long last, into India, the Ex-Lord-Chief-Justice of England has all along been understood to have become Viceroy of India for, but will also be a terrible and suicidal failure!

If, as the result of such deliberations, it becomes inexorably clear that Islam actually and relentlessly precludes Indian Mussalmans from service in the British Army under present day conditions, the Government should either let them withdraw there-from or remove the religious obstacles in the path. Surely, if Mr. Lloyd George (as Prime Minister of England) can confer with Irish Sinn Feiners in order to find a *via media* for reconciling Ireland's *political* aspirations with England's requirements, much more therefore can and should Lord Reading (as Viceroy of India) confer with the Indian Khilafatists in order to find a *via media* for reconciling the Indian Mussalman's *religious Duty* with England's temporal rule. Surely the vital difference between the Irish Republicans and the Indian Khilafatists i. e. that the former believe in organised murder, looting, kidnapping and incendiarisin while the latter do not, should not be counted against the latter as the reason for refusing to hold such a conference with them as that slippery electric eel Mr. L. G. is holding with Sinn Feinn!

If the Government, however, persists in its suicidal folly of looking upon its real well-wishers and conscientious advisers as its mortal enemies and insists on meddling with the sacredotal affairs of Islam,

SHRI SHANKARACHARYA'S ADDRESS TO THE JURY.

it would be virtually ordering a new Khilafat for Indian Mussalmans in its own favour against the original Khiafat enjoined on them by their Prophet Mahomed. And whereas the rumours of 1857 about greased cartridges were perhaps false and the consequent panic of the sepoys about their Religion was possibly erroneous, there can be no doubt whatsoever that any declaration or action on the part of the Government in the direction of dictating Islamic Law to Indian Muslims according to its own sweet pleasure and over the heads of the Heads of Islam will be tantamount to the Virtual Supercession and Practical Proscription of the Koran itself and will, certainly and inevitably drive the Muslims of India to choose, definitely and expeditiously, one way or the other, between their Eternal Over-Lord Allah and their present temporal rulers, the British—a dark and fateful contingency which we (as sincere well-wishers of all, including the Raj and the Praja, England and India and so on) can only contemplate with indescribable horror and shuddeing. And yet, as this is certainly and manifestly the direction which the Government is, wittingly or unwittingly drifting to, we feel it our Duty to call its attention thereto *for its own good*.

X—THE CONCLUSION.

To recapitulate and sum up so that our actual position may be grasped accurately:—

1. We *did* attend the Khilafat conference of July last at Karachi and we spoke *twice* thereat (not merely once as deposed to by the prosecution witnesses.)

2. Owing to our utter ignorance of Urdu, Sindhi and Persian, we knew nothing of the details of the proceedings. Nor did we concern ourselves with them.

3. On the night in question, we arrived late at the Pandal, were desired by Dr. Kitchlew to speak on Hindu Muslim Unity, the Khilafat and the Angora Government and actually spoke on these subjects from our own Hindu Spiritual standpoint. We spoke of the sanctity of the Holy places of Islam and of the sufferings of the Angora Government which has got inextricably intertwined with the Khilafat Cause.

4. We should have spoken in the same way, had the honour and the integrity of Hinduism, Christianity or any other Religion been imperilled. To a true Hindu and particularly to a Sanyasi, *all men*

TRIAL OF ALI BROTHERS & OTHERS.

are brothers and *all* religions are Divine. And he regards the oppression of the weak by the strong anywhere as a denial of God's Law of Love and Justice that governs the world. The speech, therefore merely expressed our Religious views regarding the present plight of Islam.

5. We had never yet uttered a single syllable about the Army anywhere. And it was only a few days ago here (in the Karachi jail) that we heard for the first time about this tiny and incidental part of the Resolution in question.

6. This our contention will be found substantiated by the evidence adduced and the Exhibits filed, by the prosecution itself.

7. So, on the actual facts and the evidence, we are obviously innocent of any of the offences we have been charged with.

The same would seem to be the case with Moulana Shoukat Ali who, according to the prosecution evidence itself, did no more than stand up at the end to signify his assent to the Resolution (even as the whole Conference excepting us and *including the Police*, as deposed to by the C. I. D. reporters themselves, did).

8. With regard to the intrinsic merits of the question of Muslim Soldiers in the Army, this is obviously a subject with which the Muslims alone are directly concerned, we have not ourselves studied the Koran and other Islamic Scriptures sufficiently and we always refuse to dogmatise or even hazard an opinion on any subject that we have not thoroughly studied. The only persons who have any authority to discuss this subject are the Divines of Islam and they must naturally and necessarily decide it in accordance with their own Sacred Law. Neither we nor any secular official of a Non-Islamic temporal government can be morally or even legally justified in meddling with such a purely Religious question.

9. If we had known, at the time of the Conference, that the Army question was on the *agenda* we would have frankly expressed our ignorance of Islamic law, would not have presumed on our own authority to dictate to the Muslims on the matter but would have simply and clearly stated that, just as we would always call upon all Hindus to perform their Swa-Dharma and obey the behests of the Hindu Religion, so too would we expect and wish and even incite all Muslims to carefully consider, correctly grasp and faithfully practise their Swa-Dharma and obey the injunctions of Islam.

SHRI SHANKARACHARYA'S ADDRESS TO THE JURY

10. It is our frevnt Religious conviction that men of all faiths and the Government too should adopt this universal doctrine of Swa-Dharma and therefore should also cheerfully accept such conclusions as the Divines of Islamic theology may arrive at on Islamic matters. For, it then becomes a question of Faith and the Prophets and thus gets beyond and above judicial courts, legislative acts, procedure codes and all such merely mundane affairs. This is the principle on which the whole of the chapter XV (sections 295 to 298) of the Indian Penal Code is based) i. e. that you can only agree politely with and never force yourself on or violate the feelings of even the most perversely stupid person on matters of faith. Before such prosecutions as these can stand, Chapter XV I. P. C. and its principle *must first go*.

We therefore emphatically repeat that on the evidence and from the ethical standpoint too—we are not guilty of any offence whatsoever.

We know from the Dublin (Quarterly) Review" (July—September 1921) how His Holiness the (present) Pope Benedict XV of Rome the true Servant, faithful Soldier and worthy Viceregent of Christ on earth laboured hard and impartially, with his sage advice of August 1917 to mitigate the horrors of and if possible shorten, the late War, how the selfish and godless "Powers" of Europe resented His Holiness's impartial ministrations (solely because they *were* impartial) and—in the compact between England, France, Italy and Russia—went out of their way to specially name His Holiness, as one who (on account of his madness for righteousness [and impartiality]) should not be allowed to participate in the final Peace negotiations and the settlement of issues arising out of the War and how the present League of Nations too, has similarly, carefully excluded His Holiness harming itself and not him thereby. Like him, we too have been giving our advice to the Raj and the Praja and once aain, in conclusion, let us reiterate the simple Truth that whether our advice is heeded or not and even if it is not merely not accepted but positively resented or even savagely "punished," we remain absolutely unaffected! Like His Holiness the Pope, we too have the satisfaction of having conscientiously performed our Duty of Dharmopadesh by elucidating and clarifying the facts, preventing all preventible misapprehensions and emphasising Truth and Justice. And this satisfaction will and does quite suffice for us!

From our own personal standpoint, there is neither pleasure nor pain, neither fear nor bravado, but all within is Bliss and Joy and Peace—which, in the words of the Apostle, "passeth all understanding"!

TRIAL OF ALI BROTHERS & OTHERS.

And, as regards the external aspect of life, a Sanyasi who has merged the petty individual self in the Universal All-Self cannot worry about that. He neither seeks to live nor wishes to die.

And, after all, as Brahma said on a memorable occasion recorded in the Shrimad Bhagwat (III-16-37) :—(Sanskrit Saloka.)

"[i.e. He the primeval being Who creates, protects and destroys the universe, whose infinite powers are inscrutable mysteries even to the highest Adepts, who is perfect and who is the Lord of All—He will look after our welfare ! What purposes shall our solicitude serve herein ?]

And has not Shri Krishna too said in the Bhagwad Gita :—

(Sanskrit Solaka.)

[i.e. (1) My dear boy, none that is a doer of good shall perish !

" (2) My devotee shall never perish !

and (3) Their welfare and progress I look after !

And is He not shouldering all our burdens, according to His public and definite promise ? Where then, O ! ye of little faith, is there any need or room for anxiety and worry ? Let no one therefore fear, grieve or worry on our petty personal account !

With Dante, the great Italian poet, let us say :—

" In la Sua Voluntade e nostra pace."

(In His Will is our Peace).

Om Tat Sat.

MOULANA SHOUKAT ALI'S ADDRESS TO THE JURY

MOULANA SHOUKAT ALI'S ADDRESS TO THE JURY

GENTLEMEN OF THE JURY AND THE JUDGE,

I am personally not capable of making a long speech. If you interrupt me in the middle of my argument I lose my points. I am not so clever as my brother. If you interrupt him in the middle of his speech—if you ask him questions he will never lose his argument—he seldom misses his points, I am positively certain if you give me a patient hearing—I think you will have no complaints. If the trying Magistrate had just a little patience to hear me—to let me have my say in my own way, he would not have had any complaint whatsoever. It is not my desire to waste your time or my own by inflicting a long speech upon you. I am also anxious to see the case finished. I am very anxious to see my mother and fellow-workers go away without any further delay. There is so much work to be done. I begged of her and wished her to go away, but she said that she wants to go away either with us or without us without further delay when the case was finished. So I cannot afford to make an unnecessary waste of your time and mine by making a long speech. Besides, we have much work to do for the country.

Before I go further and say what I want to say, I want to clear a few points. I am one of the Secretaries of the C. K. C. and I have worked much for it and if the C. K. C. have done anything—any work that has been done by this Committee—with the help of a large body of earnest workers I have played an important part in it. I am very glad—I am very thankful to the P. P. that he has acknowledged what I have done for it. And whatever I say now, I hope, will be taken as absolutely fair truth. I want to speak everything frankly—I want to speak out what is the real truth for your information and for the Judge.

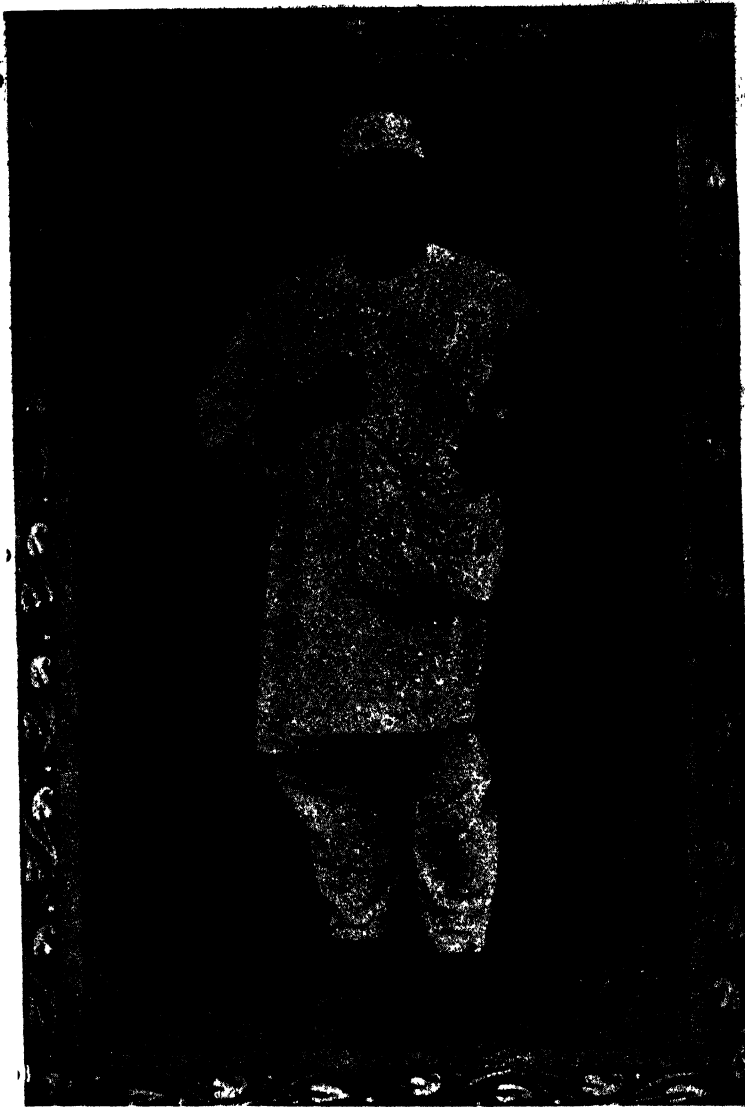
I just give you the information which the Prosecution failed to supply to you.—Poor Maulvi Nisar Ahmad who had just come from Mathura Jail—convicted under Section 124-A for six months—(he is even now a prisoner.) He came with us all the way from Gokak. While coming with us from Bombay he got fever in the train. He also was with us when my brother and myself and Dr. Kitchlew were living at Kanyapathshala, that is further information I give to you. Poor Nisar Ahmad was laid up with fever. He was not a member of the C. K. C. He took no part in the Subjects Committee. He was not elected to it. In the Conference meeting he was called upon to speak

SERIAL OF ALL BROTHERS & OTHERS

as he is a great preacher. He spoke nothing outside the Quran and the Hadiths. The people were anxious to hear him. He said only a few words.

You have heard Maulana Husain Ahmad, Pir Ghulam Mujadid, my brother and Dr. Kitchlew—they have told you—that if a Muslim goes to a Muslim scholar to know what the law of Islam is, it is the bounden duty of him as a theologian to give him a fair and square answer. So Maulana Nisar Ahmad was asked to speak on the subject. The subject is very simple for a Muslim—he requires no time to think over it—it is not necessary at all. He was in fever and so he made a short speech. What the effect of this information be on his case, I do not care—no true Mussalman would care to bother as to the result of speaking of what he regards as Gospel truth. Another thing I want to say and that is about Shri Shankaracharya. Our Karachi friends wanted him to come with us. So on an invitation from the Khilafat Committee like Mrs. Sarojini Naidu he came with our party to attend the meeting. I here take the opportunity of gratefully acknowledging the sympathy and support of our Hindu brethren in our Khilafat cause. We have a very large number of Hindus who are helping us as workers and even as office-bearers—there is not a single city in which we have no Khilafat Committee and where we have not a large number of Hindu workers with us. I have travelled all over India—and I may tell you that in all places the Hindus are working with us or giving us assistance and in many places where Mussalmans are weak they are working as members of the Committees and even as Presidents and Secretaries or as workers. So Shri Sankaracharya came to give his Hindu ecclesiastical support and sympathy with the Khilafat cause. And I may tell you again—Mahatma Gandhi—our great Sirdar—our great chieftain, he also comes and gives us his support. We carry our ordinary business ourselves—we draw up our resolutions, we talk—we quarrel—we fight in our Subject Committees—but as a rule we send for him only when we want him to make a speech often not on any Resolution. But these speeches are made only in a special way especially to prove his sympathy with the Khilafat cause. So too Jagatguruji came in and spoke. Whatever value you may attach to it, you may—but it is God's truth which I consider as my duty to put before you.

As for myself, I am not going to make a speech in my defence except to tell you what I think and I ought to tell about our work clearly and frankly. After what you have heard from my brother and from that



(Copy right.)

MOULANA SHAUKAT ALI.

Kohinoor Printing Works.

MOULANA SHOUKAT ALI'S ADDRESS TO THE JURY.

great theologian—gentlemen, that one speech, that one statement which I would beg of you to consider and pay greatest respect and attention to is that of Maulana Hussain Ahmed Saheb. You have heard Dr. Kitchlew and Shri Sankaracharya you have just heard. I have nothing left in store for me (laughter). But I want to tell you this and which I hope you will appreciate why we are doing all this? The Judge incidentally put a question to the P. P. when he was trying to prove a conspiracy that “Did he not think that this Resolution passed at the Karachi Conference was meant more for the Government so that they might realise the feelings of the Muslims?” Now, I may speak for myself and for Mahatma Gandhi—having lived with him we have practically lived as two brothers—I want to tell you and the Court so that you may understand that every effort by us, by Mahatma Gandhi—by the C. K. C.—by all our workers—sympathisers—extremists and moderates—every effort possible has been made to bring this home to this Government that it is a very serious question. For Government's sake you must realise this. Believe me, gentlemen, every possible effort was made to make this Government realise the gravity of the situation—we asked them — “satisfy the Muslim demand—rectify the Punjab wrongs and grant us Swaraj”—the Mussalmans, the Hindus—every one will be perfectly willing to co-operate with you.

Colonel Wedgwood, he is a Christian, he is an Englishman. He came over to India to study the question. I heard from my brother and friends in England that Colonel Wedgwood had helped the Khilafat cause in and outside Parliament. The Khilafat Committee in Bombay convened a public meeting to welcome him—and Colonel Wedgwood was present there—we thanked him for his efforts. A Resolution was put in and I proposed that Resolution. I spoke in his presence. I told him frankly that my heart was burning to-day against England—and it will continue to do so, as long as Britain has not evacuated the sacred places of the Muslims—so long as the British Government has not satisfied the Khilafat wrongs—so long as they have not redressed the Punjab wrongs—so long as we do not get Swaraj—so long as these are not done I count myself as an enemy of England. I hate every body who is an enemy of my God—who is an enemy of my faith and my country—and all that lies in my power I shall do in getting my rights back—and I told him also that any body—be he an Englishman—be he a Jew—a Parsee—agnostic or whatsoever he may be—any body who comes forward and does something to help me in getting my rights back—who will help me in giving me satisfaction about the Khilafat—about the Punjab wrongs—and help me to win Swaraj—there is the hand of brotherhood and fellowship I offer. And

Colonel Wedgwood jumped up and took it. I shook hands with him. And I spoke in Urdu and told the audience—there were 25000 of them “Do not blame me as I am shaking hands with him—it is because he helped us in our Khilafat work. He has come to study the Khilafat question. He has come all the way with an open mind to study the question—and he is going to do what he can. And on behalf of the Muslims of Bombay, nay for the matter of that—for the Muslims of the whole of India—I offer him my hand of brotherhood and fellowship”. And they all said “Do it.” I say now again whosoever helps us--whosoever helps us in giving satisfaction with regard to the undoing of our wrongs—whether he is the Judge—whether he is the Public Prosecutor—or the Jury or the Viceroy—whosoever he may be—we all offer him our hand of fellowship and brotherhood. Every effort was made—every effort has been made and is being made by us to justify our cause and in getting our rights back. When we were in jail there was no Khilafat Committee worth speaking. There was no organisation. There was no fund. Dr. Kitchlew was in Jail—my brother was in jail. On the 28th December 1919—from the Betul Jail we proceeded straight to the Congress at Amritsar. There was held a Khilafat Conference. I was asked to preside in that Conference. We did not think of a Republic—we did not think of rising in rebellion. I did not say that we are all rebels—I did not say that I acknowledge no King—that I owed no allegiance to him—that I did not say that I was a free man and India was my home and God alone my King—I did not say that we do not want your Police, your army and your navy—I did not say that I do not want the protection of your lands—then I counted myself as the subject of the King Emperor. At that Khilafat Conference, gentlemen, a resolution was passed that a deputation was to wait on the Viceroy to put everything before him—to put our case clearly and moderately. Another Resolution was that we must send a deputation to England to put our case before the King, the Parliament and the people of England. I as President was ordered to make arrangements. The Government of India readily assented to receive the deputation—and on 19th of January 1920—the pick of the Mussalmans—the Ulema—the pick of the Hindus—and Mahatma Gandhi was in the galaxy—we waited upon the Viceroy and put clearly our demand. The Viceroy made a speech. He had personal sympathy with us and he realised that the Moslem feeling was genuine. And he got the deputation to England a passage in February next. My brother, Moulana Suleman, Nadri, Mr. Syed Hossain and Mr. H. M. Hayat—they were members of that deputation. The deputation sailed and we waited for months and months

MOULANA SHOUKAT ALI'S ADDRESS TO THE JURY;

to see what answer we get from my brother—we were eagerly waiting for a cable from him. Meantime every possible effort was made to carry our message to our people—everything was put before the Viceroy to make him and the English people realise our grievances—that it is a matter of religion—it is a matter of our conscience. There was no question of bluffing in this as has been hinted. We mean business now and we meant business then. We wanted that England should know what the Muslims felt about the Khilafat and once for all realise the strength of genuine Muslim feeling.

• People ask—what has become to the Ali Brothers? I tell you, we have our English friends—I was in Government service for 17 years my brother was brought up in England—was for four years at Oxford—I was one of the best cricketers in my days—I was a strong swimmer—an expert athlete—I was socially popular—Mr. Ross Alston will be able to tell you that. I met him in Benares—I was then in the Government service. I want to say all this to show that we are not—not by nature revolutionary—that we are not born in Revolutionary family. I have not gone mad—a mad dog has not bitten me (laughter). But things have happened which have upset us—we who were once very careless—we who used to put on fine clothes—we who are brought up in luxury—these old days are gone—you have no idea how dressy and smart this brother of mine Mahomed Ali was—how he used to spend thousands of rupees on clothes only—but things are different.

Well, the point is this, we did what we could in India. We made our appeals to England—to British Ministers. The Government of India sympathised with us—they wanted to show a generous spirit. The Government of India, the Governor of Bombay realised the feelings of the Muslims. The Governor of Bombay, I am told, said that “My heart is in sympathy with the Muslims but it is not in our power. Go to England”. Therefore we sent over a deputation. They went over everywhere. They interviewed Mr. Montague—they interviewed the Prime Minister—they saw members of Parliament. They addressed meetings in England, in the county in Scotland. But to no purpose. They went over to France. They knocked at every door—waited for some little consideration—some little ray of hope. We waited for a message. My brother for days and months never sent a message. At last a message came. We came to know that France is willing to make an honourable peace with Turkey and satisfy what the Muslim's demand is—and that Italy had already made a peace

TRIAL OF ALI BROTHERS & OTHERS.

with Turkey and that it is our Government, the British Government alone who was unwilling. When the War broke out England promised on the 5th November 1914; Lord Hardinge made a definite pledge on behalf of the King and even the Czar of Russia was consulted—and they all agreed to this that all the Muslim sacred places will be immune from attack and molestation. I do not remember all the details. One clever brother in the family is more than sufficient (laughter). But all the same what I am telling you is absolute truth. I am not keeping back anything—because we are straightforward people. We tell you in your face what we think. And God willing, I still hope—hoping against hope—that things will not be bad as they are. Let us hope that.

We came to know that it is impossible—we can get nothing from England.—That's what our deputation told us—and in the meantime we were not idle. When we found that England's pledge carry no weight we acted like old Cromwell—"Trust to God and keep your powder dry." We carried this message to every home in India—we roused the Moslem, We roused our Hindu brothers to work, to do what lay in our power. When we found there was no hope—that this Government would pay no attention to all our appeals—to all our memorials—to all our begging prayers and petitions we decided after a full consideration--after a great deal of heart searching--and the great man whom I a Mussalman, am proud to acknowledge as my Sirdar and chief—Mahatma Gandhi—he who is not only a great man—a good man, a clever man, a shrewed *bania* as he is—who thinks two hundred times before he says anything—he thought and thought over it and at last told us that there was no chance whatsoever to make this Government realise the wrongs it has done or to repent its actions—but to put difficulties in its way—in a peaceful way that they may come to hear us. And we started non-violent non-co-operation. We spread the message all over India. I have travelled many thousand miles—I have travelled all over India.—I have been spreading this message to thousands and thousands of our fellow-countrymen and countrywomen working and carrying this message to every home—man woman and child. How many thousands of miles Mahatma Gandhi travelled how many thousands of miles I have travelled—how many thousands of our people Hindus and Mussalmans are working for the Khilafat and for Swaraj. Gentlemen, we know and the Government know it well. We do not mind what the Anglo Indian papers write about us. What our Moderate brothers say about us. Our chief is the coolest man—the one man that never gets excited is Mahatma Gandhi.

MOULANA SHOUKAT ALI'S ADDRESS TO THE JURY.

He is calm—he is resourceful—he is too careful—he knows what he does and he knows how to do a thing. And I may tell you, gentlemen, I will betray him—I think he in his heart of hearts still believes in England—that she will yet apologise—yet repent when she realises our just cause—will appreciate the justice of our demand regarding the Khilafat and the Punjab and will give us what we want. I have studied him—he believes in his heart of hearts that every Englishman and Englishwoman is not what the Anglo-Indian newspapers picture them to be—he still believes that the British Government will yet come round—they will satisfy the Muslims—they will yet give satisfaction on the question of Khilafat and the Punjab—and give us what is necessary. If so, well and good.

Gentlemen, there is a well-known Persian proverb—"you call me a Haji and I call you a Haji" *Man tura Haji begoyam to mara Haji bego*"

Gentleman, I have told you, I want to be fair and square. I am a frank man—and I know my brother also. I brought him up as a little boy at Aligarh, ate up his pocket money—I thrashed him when he questioned about it—I educated him—I sent him to Oxford. I have followed him as a friend and I now follow him as a leader. There is one weakness in him that I tease him about. There are two—one is that he cannot forget the 4 years he had at Oxford—He had a certain affection for England and its people and the second is by nature he is a believer in constitutionalism. If there is one constitutional man in India—it is Mahomed Ali and that is why he was so much worrying the judge and the Jury. But circumstances are different. We are being forced—we are doing all this because we must. You know my faith—you have heard my brother—you have heard Dr. Kitchlew—you have heard Moulana Hussain Ahmad Saheb—all of them have told you that we must work and induce others to work for a good cause—it is my faith as a Muslim—it is a perfectly good thing for me to die for God and truth and it is equally a good thing for me to kill for a good cause. I am not afraid of this.

But we have thought over the whole thing. We still give the Government every chance possible. Mahatma Gandhi and we all of us in the Congress Special Sessions in Calcutta in September 1920—we said within one year we will get Swaraj and that we will start non-violent Non-cooperation. The Congress took up our Khilafat programme—adopted it—this period expired on the 30th September. But on account of the Congress decision we have extended it till 31st December 1921 and in this period to make every possible effort

TRIAL OF ALI BROTHERS & OTHERS.

that lies in our power to bring this Government to realise its duty to carry out the promise made—and to give us every satisfaction. You may think, Sir that we are showing discourtesy to you—that we mean any insult to your person—No, personally I am as humble as any thing, if you wish I may make an honest and sporting offer to you. Today if any personal humiliation you may require from us—from me from my brother or from Mahatma Gandhi—if you ask us without any show of force without any threat if you want us to crawl for you—if you want me to crawl on my belly—though I am so heavy I will do so—I will write poetry on the ground with my nose and whitewash my face and body—I will do all gladly and cheerfully only on the promise that you will give me satisfaction as regards my demands. To-day, believe me, when I go to say my paryers five times a day—and turn my face to Kabba (Mecca) not always but sometimes when God's light is on me, my heart tell me "You coward, your Kibla (Kabba) is not yours. It is in the hands of men who are not going to give it back to you. The custodian appointed cannot afford even to keep it clean or lighted. You ought to be ashamed of yourself". Yes this is true. The law of the Quran says that no Muslim should have any control whatever over any part of sacred places in the Jazerat-ul-Arab. Take it from me that what I am saying I am speaking from facts. I am perfectly willing, if you satisfy me on those points to do whatever you like. You may hang me—you may transport me for life—I will not object—I am perfectly willing to go on my knees if you (judge) will only throw away the file, run and go to Simla tomorrow and tell the Viceroy there that we are no blackguards—that you are convinced of our sincerity and that you cannot convict us under any section of the Penal Code for our adherence to Islamic Law—and tell him to satisfy our just demands. After all, what are we guilty of? We do not want any body's home—we do not want any part of England—we do not want any body's property—I do not want that this judge should be hanged and I should go and take his place (laughter). No, I want to hurt no body. I only say "Give me back my own you have no interest in that; it is a land of sand—it does not produce anything. There is nothing in this country. It is a most uninviting country—the climate is hot and no European can stand that. On that barren country my Prophet and his companions walked barefooted. If I had health and strength, I would like to kneel at every step and kiss every inch of that sacred ground, perchance I may kiss one particle of sand that had touched my Prophet's feet. To-day I am non-violent.—We have an army of workers. If I am in jail, my mother is working. My brother is in jail, his wife is working

MOULANA SHOUKAT ALI'S ADDRESS TO THE JURY

though she is not as brilliant as my brother—she is working. Thousands of women have come out throwing away their veil. Many thousands of new workers have come out—they are all praying for us. I saw when I came to this hall old and young women pray for us and point with their hands towards heaven. Each one of them will tell you that God is with us—children, boys, old and young they are all with us. I have travelled from Karachi to Assam—I have travelled all over India and I may tell you, gentlemen, I have seen the same everywhere—the feelings are very strong.

Gentlemen, you have heard a great deal about Malabar. People say that the speech that my brother made in July in Karachi (interrupted).

The Court.—I will not allow you to speak on the Moplahs.

Moulana Showkat Ali.—I am not going to talk on the Moplahs. You will appreciate what I say. My brother never went to Malabar. Mahatma Gandhi and myself went there. We reached there at 12 O'clock. We were carried in a procession—then we went to the public meeting. The next morning we came back to Madras. I saw that it was our weak point. We had no workers there and what there were—they were hampered. Wherever we are strong—wherever our workers have reached—thank God, the peace of India is kept and orders of the Jamiat-ul-ulama—the orders of the Khilafat Committee—the orders of the Congress and the orders of Mahatma Gandhi have been carried out.

Gentlemen, you know how the Anglo-Indian Press have been flouting the religious demands of the Muslims—how Mahatma Gandhi and others are ridiculed—they say all sorts of things about us—and I may tell you frankly that some young men they were exasperated at this constant slander against us in the Anglo Indian Press—these youngmen—their blood was boiling they came to us and asked us “what are we going to do”. They said “We cannot remain non-violent non-co-operators always” and I said “No” to them. I tell you my reasons. Where a question of killing comes in—I will go and kill myself. But we cannot have two things together. We cannot have peace and war. We can only have policy. The order has gone out that we are to carry out non-violent non-co-operation. You cannot have two things together. Either you will have peace or you will have war—Revolution. And up to 31st December we shall have peace. Every order of our Sirdar Mahatma Gandhi, the great chief in this campaign—we have got to carry out. I may tell you gentlemen, the danger is there—the feeling is there. It is the feeling everywhere

TRIAL OF ALI BROTHERS & OTHERS.

—in my heart—in all the accused's heart—in every Muslim's heart—in every Hindu's heart—in every Indian man and woman's heart and the two—Hindus and Mussalmans are combined—the women have thrown off their veil and have taken up the nation's work—the feeling is working—it has reached Afghanistan, Persia, Arabia, Turkistan, Khiva, Bokahara, and Russian Muslims and to numerous other people—to the Muslims all the world over. As a secretary of C. K. C. I get much information—it is my business to find what the Muslim is doing—and I am very glad to tell you—it has reached practically every house in India—to every Muslim in the world. I am not saying all this as a threat. This is a fact which you will have to realise. We went to the Viceroy and we gave him a warnig. My brother went to England and spoke clearly to the Secretary of State—we said, we are agreed to make peace—Dr. Ansari, Mr. Chotani and other people did go to England—Mr. Chotani has only just returned. They did their best. We had to tell the Government and I tell it again—through you—and through this Court—I want this message should go to the higher authorities that we are perfectly willing—we are anxious to make peace but let the Khilafat be satisfied to the satisfaction of Islamic law, not if any individual Shaukat Ali or Mahomed Ali or Kitchlew; let the Punjab wrongs be righted—and I want you to carry this to the authorities at Simla or elsewhere—let there be a conference of Thirty men—men who have understanding—whom India trusts, reliable men. God fearing men—who have got truth in them and who in their daily life followed no other law—who will see what the whole Muslim demand is—and if such men (Ulema) give a Fatwa saying that England is going to satisfy your demand and now you can co-operate with them—I shall be very glad to go and shake hands with every English officer and be a subject of the King again. This is honest truth. But suppose this is not done: Well I shudder to think. I cannot forget—I who was most friendly with the English people—among whom I count some of my intimate friends—I who was educated by an Englishman next to my mother, owe everything to Englishmen I cannot forget this—when I wish to fight against Englishmen the figure of my revered Professor Theodore Beck comes to my mind. I know what he is to me. This is honest truth. I wish that we should as soon as possible get our quarrels settled without any further unpleasantnes. My feeling is this—that as India is my country—it is the country of every one—Hindus, Muslims, Sikhs, Jains, Christians and Jews—who has made it his home—and even of every Englishman or woman who has made it his or her home and is ready to serve and love my country and I hope no body will be tormented here—when I have my Swaraj,

MOULANA SHOUKAT ALI'S ADDRESS TO THE JURY.

on account of his conscience. Whosoever is true to India—Whosoever will serve he will find his place here and the laws of the country will protect him. That is why I am anxious that India should not become another Ireland or Egypt. We are 33 crores here—we can very well look to our coasts—we can very well guard our frontiers. Look at the hugeness of its coasts—at its land frontiers—there is a corridor from Constantinople right up to Shahrampur where the majority are Mahomedans—all through Muslim countries—Afghanistan, Persia, Arabia, Bokhara, Khiva, Russian Muslims—we know there are 40 crores of Muslims in the world and our brother Hindus 22 crores. Hindus—they have thrown in their lot with us—and is it worth while to fight 62 crores? We fully realise our strength. I can assure you that this is not bluff. We know our strength. Our Chief, our great Sirdar Mahatma Gandhi would prove to be one of the greatest Generals if he could believe in violence. I have also the blood of a soldier in me. (laughter) But the battles will be fought in India. If we kill a few Englishmen here—many Karachi houses—my relatives' tombs Muslims' tombs, Muslim houses—Hindu houses—many Muslims and Hindus—they will be killed and destroyed if we kill a few Englishmen here. But I know my strength from what is happening in Malabar. In spite of all the resources and powerful military strength, the Government cannot subdue the handful of Moplahs. I can draw my strength from every district in India. Malabar is a small district, it is only a few Mahomedans—they are fighting and fighting for two months. Every district in India is stronger than Malabar.—You can take it from me—every district in India is stronger than Malabar. The Muslims in every district, in the Punjab—United Provinces—and Bengal—they are stronger people—they have more brains—they are more educated. What would be the effect if the whole country was like Malabar? But I want to avoid all this because it is not by bloodshed that we want to satisfy our demands—it is not bloodshed that we want. We have made every possible effort to make the Government realise the situation—we have given them time to think up to 31st December. We are working hard—day and night. But our object was that we wanted the Government to think why was all this done. I asked Mr. Ross Alston—he knows me from my boyhood, I told him look at me—I who had had a large number of English friends—I who was a Government servant for 17 years in the Superior grade of the Opium Department in which there are very few Indians—I am still on the Pension list, though I do not draw the pension—I have friends among the Englishmen there—I know there are many English men and Englishwomen who will be sorry that I have taken this attitude

TRIAL OF ALI BROTHERS & OTHERS.

But to-day I know none but God. I am not bitten by a mad dog—I am not insane—I am perfectly in my senses when I make this speech—but what is it that has made me this? How is it that we have come to this pass? I know I am making an incoherent speech—but it is my heart that is speaking—I am putting my heart before you. But how is that we have come to this pass—we who were *Khoshamadis* (flatterers of this Government)—What has happened to us. How is it we who were so much against the Hindus and the Congress are so much forward than even Hindus in general. I asked Mr. Ross Alston this question when I met him to-day. He said that an English officer only last night asked him the same question about my brother. Well I am perfectly willing to make peace with anybody to make friends with Hindus—Christians—with any man—what ever nationality he may belong to so long as they do not mean any harm to my country or to my religion—I am perfectly willing to do so. Gentlemen, looking at my big size, I look terrible—I look like an awful ruffian—you would not like to meet me in dark lane at 12 in the night—looking at my heavy body, you will not judge me I pray—I was a greater swimmer, I was a good boxer, I was one of the best bats (cricketers) in India—for nine months in the year I used to be in camp walking a happy careless fellow—and yet to-day—I make a confession that my religion demands, my country demands all I have—I am obliged to throw away my personal feelings—I have thrown in my lot for my God and for my country—and I am now in the service of God.

Somebody said something about my home in Moradabad. The P. P. asked Mr Lakhte Hasain who said that I had a house and lived there. I think he did not tell a lie intentionally. But I may tell you at once that we have no house there. As I cannot go to Rampur so whenever my mother wants to see me or I want to see her I go to my cousin who has got a house at Moradabad and she comes there and meets us.

People say that there is no want of toleration in this country—but I should like to tell you why I and my brother are not allowed to go to Rampur. During the time of Mutiny my grand father saved the lives of many Englishmen and Englishwomen—he was then the right hand man of the Nawab of Rampur and he had received a big Jagir as reward for his loyal services. My father got a share of it and so did we though we have sold all our share in the Jagir when we were interned in the Betul Jail to defray our expenses thank God that we have done with it and nothing is left. And I may tell you we have

MOULANA SHOUKAT ALI'S ADDRESS TO THE JURY.

never been unfaithful to the Prince—we have never been traitors. This is my family tradition. The Nawab of Rampur personally has the greatest affection for me. He respects us. But one day, when we came back to our home after our release—after we had dined with him His Highness said—“ Few days ago Sir Harcourt Butler sent for my Chief Secretary and he said Mahomed Ali and Shaukat Ali give us a lot of trouble—do ask them to give up, what really meant, the Khilafat cause ” And he said you have to give up this or go out of Rampur. I said Sir Harcourt Butler himself can do it—there are plenty of Regulations—they sent us under Reg. 3 of 1818 to Jail—well he can do it even now, but why should you ? We have done no political work in Rampur—we have only come to our home for rest and comfort. Why should your Highness do this dirty work for him ? He said I can't help it “ You must choose either to give up work or go out of Rampur ” and that is why I rented a house at Moradabad as a sort of Rest House. We have not rented a house there that we may send out those writings from there. I do not want to prove it. You may take it from me if you like. That kind of work is not our style. But I think when our C. K. C. the Jamiat-ul-ulama and all other people decide and order us to actively carry out this non-co-operation propaganda and when thousands of workers are actively carrying this propaganda, God willing, it will reach tens of thousands of Subedars, thousands and thousands of soldiers—it will reach every Muslim soldier—it will reach every Hindu soldier,—there will be tens of thousands of workers working everywhere—in every village—in every town—there would be thousands of females working. You cannot wrap up these soldiers in a glass case only for show; they have got to go to their homes—they have got their relatives and friends—we shall approach every Sepoy we shall approach him in every possible way his mother will speak to him his wife will speak to him; our ladies have thrown off their veil, my mother will go to them my brothers' wife will go to them, my daughters will go to them, our women will go to them and give them the message of God—even if we are punished they will do it. How can you stop that ? But still even now up to 31st December there is every chance of reconciliation. If there is no reconciliation or settlement before 31st December then you will see. You (pointing to the judge) will not be there where you are now—the power that is in your hands we will snatch it—God willing we will do it. We have strength enough. We have the power of self sacrifice. We have the power of suffering. We have got power of organisation and brains. Our country is powerful—it is strong and it can look after itself. Whatever you decide, personally it is nothing to me. I am ready for every-

TRIAL OF ALI BROTHERS & OTHERS.

thing—I am told there is a man of war sent from Colombo to take us somewhere. Well I shall be very happy in Jail—I am still gaining in weight, my brother is also improving. So it is not a question of anything personal to me or to him.

One thing more and I shall have done. After all, you would like to know why this prosecution has been started? I would like to tell you and the whole world (interrupted by the court)

Moulana Shaukat Ali continuing said:—There is a vast difference between Mahatma Gandhi and myself. He belongs to the party of God's good people, I belong to God's *badmashes*. Mahatma Gandhi, Moulana Hussain Ahmed and Moulana Abdul Bari are God's good subjects and I and the large numbers of Hindus and Mahomedans we are God's *badmashes*. Thank God we belong to God but we trust him. (Mahatma Gandhi) and he trusts us. The Mussalmans and the Hindus have now united and every possible effort has been made and is being made to part us. If you read the pro-Government newspapers you will find, somebody says—Mahatma Gandhi is a saint—he is a good man but his meetings with these ferocious people, the wicked Moulanas Shaukat Ali and Mahomed Ali who are in touch with the Afghans and in pay of the Turks and that Mahatma Gandhi is nothing as so much of clay in their hands. Others say Shaukat Ali and Mahomed Ali are very simple and straightforward people but it is the wily Bania of Ahmedabad, it is he who has won over those Mussalmans and he is going to ruin them and the Mussalmans. It was said that Ali brothers had apologised to Government. When Mahatmajee and myself met at Allahabad in May last, we heard that Pundit Madan Mohan Malaviya was the peace maker. He sent a message that the Viceroy would like to see Mahatma Gandhi and Mahatma Gandhi went to him to Simla. He went because you know he was always willing to step forward because he does not want bloodshed and we, too, do not want bloodshed so long as there is hope of success by means of non-violent non-cooperation. So he went to Simla and had six interviews lasting sixteen hours with the Viceroy and Mahatma Gandhi sent us a wire to me and my brother to meet him at Khandwa. I was busy so my brother went and met him. Mahatma Gandhi said that there is an impression outside among friends and others that you (Mahomed Ali and Shaukat Ali) mean violence though you make a declaration to the world that you stand for non-violence. And he told all about the talk he had with the Viceroy. Mahatma Gandhi wanted us to make a statement to the people of India. He was very earnest about it. He said that he wanted us to go to jail but only on a clear issue, and he himself wanted to do the

MOULANA SHOUKAT ALI'S ADDRESS TO THE JURY

same. So I and my brother issued a statement that we do not mean violence while talking of non-violence. You know gentlemen, day and night, for days and months, I have been working for the success of non-co-operation.. And thanks to God, tremendous changes are going to take place, India is marching *with hundred bange boots on* with thousands and thousands of new recruits consecrated to the cause of the country and religion. India to-day is some thing new, and tomorrow she will be newer thing altogether. There was one disease that Indians suffered from; thanks to the efforts of Mahatma Gandhi, they have shaken that off. We Indians were deemed as cowards, God be thanked no body can say that now. The history of India is being shaped in a new fashion. So we obeyed Mahatma Gandhi's order and sent that message to the Press. Gentlemen, I may tell you even if we meant it for the Government of India, the Government of India ought to have been chivalrous enough to make peace with us. They would have said "Well, when even the Ali brothers have put in the statement it is easy for us to sit in a round table conference. But this was not to be done. We were ridiculed. Mahatma Gandhi was ridiculed and the whole host of the Anglo Indian press came upon us. And I am sorry our co-workers in Jail were told that we had apologised to Government. Well, I could see there was no change of heart in Government even in the Viceroy—we were told he was a very suave and persuasive man. He and his Government wanted to discredit us in the eyes of the Muslims. They wanted to discredit us in the eyes of Hindus they wanted to discredit us in the eyes of the world and we were to be as the "Leader" said "Ali Brothers were as bad as a door nail." However I am very glad indeed—I am very happy indeed that this time the issue is very clear. I want your decision—I want the decision of the Judge whatever it may be. Thank God, that before this our message could not reach the army as we might have wished. By this prosecution it has reached every one of them—it has reached every home every Mussalman—every Hindu—every Indian—man and woman. New workers are coming out and I am not afraid that there will be any dearth of them. Gentlemen, I leave everything to my God. Personally I do not care, jail or no jail, I want to tell you that all the gifts God has given me, every power, every little thing that I can do and all that lies in my power, I will do for my God, and for my country so long as the Government to which you belong—so long as this Government to which this Court belongs does not do justice to Khilafat, does not satisfy us, gives us back the power of Khilafat, does not satisfy as about the Punjab wrong and does not give us Swaraj all that lies in my power I will do, and God willing we will uproot you

TRIAL OF ALI BROTHERS & OTHERS

altogether. To-day I am non-violent non-co-operator, tomorrow if God forbid, Mahatma Gandhi fails, if the country fails I shall do whatever lies in my power. Thank God we have got the courage, we have got the strength, we have learned the value of suffering and sacrifice and we will whatever our great chief Mahatma Gandhi asks us to do. God willing we will face all dangers, face death with eyes front. (Here the Maulana was returning when friends reminded him about some verses, he turned back and said:—

Gentlemen, I want to say one thing more. Thousands of speeches I have made attended hundreds of meetings, but when I am pleased and when the feeling comes in me and there is nothing to do I sing though I am not a singer. In jail now when I am locked up in my cell I recite the following four verses;

(URDU)

(" We will follow neither the greatest lover Kais nor Ferhad....
we will invent a newer kind of madness of our own.)

(URDU.)

(" They give their lives on your tyranny, they die on your cruelty
It is really these careless failed lovers who in truth do something great.)

(URDU.)

(" The cruelty and tyranny practised on the lover and in love
is no cruelty.....If there was no cruelty in love, there would be
no pleasure in love) and lastly though I hope there will be no need for
it.

(URDU.)

(" The sky-stars-enemy of lovers has not really come in contact
with me having fire in his heart.....Well don't call me Dagh
(the poet's name) if I don't burn whole into ashes.)

HEADS OF CHARGE TO THE JURY.

Ex. No. 113.

IN THE COURT OF THE JUDICIAL COMMISSIONER OF
SIND.

SESSIONS CASE No. 33 OF 1921.

The King Emperor.

versus.

1. Mahomed Ali of Rampur.
2. Moulvi Hussein Ahmed of Deoband.
3. Dr. Saifuddin Kitchlew of Amritsar.
4. Pir Ghulam Mujadid of Matiari.
5. Moulvi Nisar Ahmed of Cawnpore.
6. Bharti Krishna Tirathji *alias* Vekantraman
7. Shaukat Ali of Rampur.

are charged as follows:

1. That you all the accused at sometime or times between the months of February 1920 and September 1921 both inclusive at Karachi and other places in British India were (with others) parties to a criminal conspiracy to seduce Mahomedan Officers and Soldiers in the Army of His Majesty the King Emperor from their duty and thereby committed an offence punishable under section 120-B-115 read with section 131 of the Indian Penal Code and within the cognizance of this Sessions Court.

2. And you the said seven persons are further charged that in pursuance of the said conspiracy attempts were made by a member or members of that conspiracy in or about the months of July or August 1921 to seduce Mahomedan Officers from their duty by sending leaflets in the form of Ex 34 to such officers and you thereby committed an offence punishable under sections 120-B/109 read with section 131 I. P. C. and within the cognizance of the Court of Sessions Karachi.

3. And further that you Mahomed Ali on or about the 9th day of July 1921 at Karachi, made a statement to wit, that it is in every way religiously unlawful for a Musalman at the present moment to continue in the British Army or to enter the Army or to induce others to join the Army, with intent to cause or which is likely to cause Musalman officers and soldiers in the army of His Majesty to disregard or fail in their duty as such, and thereby committed an offence punishable under section 505 of the Indian Penal Code and within the cognizance of the Court of Sessions Karachi.

4. And further that you (accused 2 to 7 inclusive) conspired with the said Mahomed Ali to commit the said offence under section 109 I. P. C. which he committed in pursuance of that conspiracy and you thereby committed an offence under section 109 I. P. C. read with Section 505 I. P. C. within the cognizance of the Court of Sessions, Karachi.

5. And further that you Mahomed Ali on or about 9th day of July 1921 at Karachi abetted the commission of an offence punishable under Section 505 and or section 131 I. P. C. by more than ten persons in that you stated in the All India Khilafat Conference that "It is the duty of all Musalmans in general and the Ulema in particular to see that these religious commandments (referring to the words quoted above) are brought home to every Musalman in the army" and thereby committed an offence under Section 117 I. P. C. and within the cognizance of the Court of Sessions, Karachi.

6. And further that you (accused Nos 2 to 7) conspired with the said Mahomed Ali to commit the said offence under section 117 I. P. C. which he committed in pursuance of that conspiracy and you thereby committed an offence punishable under section 109 read with section 117 I. P. C. and within the cognizance of this Sessions Court Karachi.

The questions for your decision and opinion are not really complicated and I hope that I should not have to detain you long but the course which the trial has taken will render it desirable that I should express my views on matters not absolutely essential for the decision.

Before we begin I wish to say one word about the proceedings in the Court below and in this Court, which have been the subject of some remarks from two of the accused. There were no irregularities in the trial in the Committing Magistrate's Court, and if the magistrate in a case triable exclusively by the Court of Sessions where the evidence is of the character which it is, and where the accused reserved their defence, contemplated at an early stage the probability that there must be a committal, he acted merely as a prudent magistrate should. The accused raised some objections to the alteration of the charges in this Court but the alterations are immaterial and merely intended to inform the accused with greater precision as to the charges against them. Had the accused asserted at the proper time that such alterations prejudiced them in their defence the Court would have considered whether it was necessary for it to grant an adjournment but no such objection was then taken. Similarly this Court has been particularly careful to see that no prejudice has been caused to the accused by the admission of evidence which was not before the committing Magistrate at the committal.



(Copy Right.)

B. C. KENNEDY, Esq., I. C. S.,

Judicial Commissioner of Sind.

HEADS OF CHARGE TO THE JURY.

proceedings. As for the trial in this Court I think the accused will admit that they have been given far more latitude than the defence would have had, had it been in the hands of a professional advocate and that though the Court has had on occasion to vindicate, not the personal dignity of you or of myself, but of justice itself—I think I have rather erred in the direction of tenderness than of severity. Before we begin to approach the case I must ask you to clear your minds of a great deal of embarrassing matter. The principal charges against the accused are those of *conspiracy*. It is on the main question of *conspiracy* that you are asked to give your verdict, the minor charge of *conspiracy* without attempt is really strictly a question for me as judge helped and guided by your opinion as assessors but not bound thereby; but I intend to leave this charge also to you as a jury. It would not I think be decent or respectful to you in two charges so closely allied not to accept your finding in both of them as binding in so far as this Court is concerned. As regards the other charges in respect to an allied but different conspiracy I must (guided and assisted by your opinion) form my own conclusion.

Therefore it is on the conspiracy that you must make up your minds and the issue between the accused and the Government which is to be decided by you is whether the accused were guilty of the conspiracy referred to in the first two charges. The accused are not being tried for sedition or high treason and if you find that the accused are not guilty of a conspiracy they are entitled to an acquittal however seditious or treasonable you may consider their conduct to have been.

Further I beg you to dismiss from your minds anything which the accused may have said about what may be called succinctly the Gandhi negotiations. The accused are being tried for specific and clearly defined offences and not for any acts which are not the subject of the present charges. I do not propose to refer again to this topic.

Again you may dismiss from your minds anything which you may have seen in the papers about the *effects* of the Khilafat agitation. The accused are not being tried for being members of the Khilafat associations and there is not before us a particle of evidence as to their responsibility for the deplorable events in Malabar. They are charged before you with specific offences of conspiracy to seduce the troops from their allegiance and with nothing else.

Again we must be careful not to allow ourselves to be swayed by any external personal considerations or sympathies. Shoukat Ali on

TRIAL OF ALL BROTHERS & OTHERS.

Sturday indirectly threatened us with assassinations shortly after the 31st of December if certain demands of his were not granted by Government. We must not acquit him or the other accused if they are guilty on account of fear, for we do not fear him, because we know that neither Shoukat Ali nor his *fedawis* if he has such can abridge our allotted span of life by one instant, nor on the other hand must we convict him if he is innocent to show that we do not regard his threats.

On the other hand it is possible that one might reasonably feel some sympathy and respect for some of the accused. Some of the accused seem learned and pious men and of some it might be said there are no citizens to whom the laws would owe more did they follow the right path." I do not give the rest of the quotation because I hope and trust it is not opposite. I think that Islam and this Empire and this country might have profited much by them had they not taken up this course which whether criminal or not is the path of faction and separation which can lead only to ruin and disruption of the path of union and co-operation which is the only one which can lead to peace and prosperity. Yet though we cannot but deeply regret that some of the accused are here at the bar of their Sovereign's Court instead of being high in the service and counsels of His Majesty, we must not let that sorrow lure us from the path of duty which is to judge the prisoners at the bar according to the law of the land and the evidence before the Court.

Nor are we in any way to be swayed by our feelings as to the Turkish question. Some of us think that Turkey has had hard measure meted to her. And as regards the house of Usman we may feel that, whether or no it has any claims to the Khilafat, it has been for centuries the inheritor of the championship, the guardian of the frontier forts of Islam, the custodian of the sacred places, and the sword and buckler of that great faith and great civilisation and we may sympathise with those who feel aggrieved that in these days when every petty nationality claims independence and an assigned territory, Islam alone should be menaced in its ancient seats. Others on the other hand may think that there is no wonder if that which came to the sword goes by the sword, and that there is no cause for repining if God has given to one Constantine what he had taken from another. But the accused at the bar are to be judged according to the law of the land, and the evidence and not according to our feelings, one way or the other in respect of the sides they have taken in this matter.

HEADS OF CHARGE TO THE JURY.

Now that we have cleared our minds as far as may be of personal matters or errors arising from idiosyncrasy, we must also free our minds from the error that the accused have tried to create there.

The accused in their defence have strenuously maintained the propositions *first* that their religion compels them to do certain acts, *secondly* that no law which restrains them from doing those acts which their religion compels them to do has any validity and *thirdly* that in answer to a charge of breaking the law of the land it is sufficient to raise and prove the plea that the act which is alleged to be an offence is one which is enjoined by their religion.

The first proposition is utterly irrelevant in this trial because the second two propositions are not true.

They rested their contention as to the invalidity of certain laws on various proclamations by Queen Victoria and her successors. Queen Victoria and her successors were and are constitutional monarches and employ constitutional advisers, and no principle is more vital to the constitution than the principle that the sovereign's proclamation has no effect to make invalid a law. For the law is itself the most solemn expression of the sovereign's will. Any proclamation therefore which secures to the subject the free exercise of his religion can not repeal or make invalid any of the laws of the land which render certain acts punishable, but if it should appear at any time that there was a variation between any such proclamation and any such law then we should have to confess that our humble intelligence was not sufficiently powerful to understand the meaning of both and we should have to apply the law of the land which we are bound to administer.

Fortunately there is no such conflict visible here. The proclamation assures to every man the free exercise of his religion. It does not permit him under the colour of his religion to attack the rights of others, or the rights of the sovereign whose protection he invokes. What a chaos any country would be in and particularly this country if the doctrine "*sic utere tuo, ut alienum non laedas*" were not strictly applied. There are so many jarring sects and creeds in this Empire that there is hardly a single crime which some person or other might not commit under the colour of religion. Therefore the legislature of this country (careful as it has always been of the religious rights of the subjects) has laid down as prohibited certain actions, which must be prohibited in the interests of civilisation, applies penalties to the breach of such prohibitions, and calls on us to apply those penalties if the prohibitions are disregarded.

TRIAL OF ALI BROTHERS & OTHERS.

If by some mischance a person finds himself in the painful position that his religion and conscience clearly and sincerely impel him to a course of action which the law of the land forbids, he must if he wishes to escape the penalties of the law either procure the law to be changed or leave the country. If he will do neither and proceeds to break the law then he must be punished. He cannot approbate and reprobate, he cannot invoke the protection of the law of the land when it suits him, and break it when it suits him. A man whose conscience tells him to break the law of the land and who does break it, may possibly merit our respect and sympathy, but cannot escape our punishment. Whether the executive should in such cases invoke the law is a question of expediency only. There have been martyrs in all ages from Antigone to Vacell and there have been perverse fanatics in all ages. The law cannot discriminate. All it can do is to find the alleged offender guilty or not guilty and if he be found guilty inflict the penalty, leaving it in the hands of the executive Government to exact the penalty or not at its discretion, and leaving to the offender the prospect of a reward (if he has merited it) which will compensate him richly for our temporal censures.

The questions therefore whether the Mahomedan religion renders it unlawful for a Muslim to kill another Muslim, and whether the accused were bound to propagate that doctrine, or whether the accused genuinely believed that they were so bound and that such killing is unlawful are really not at all relevant to this case and I should have wished to keep all such questions out of this charge. But the accused have persisted in raising it with much eloquence and show of learning. I endeavoured to stop them, though the discussion was one which was highly interesting, because I did not wish to confuse the issues and did not wish to allow the present trial to be a means of propagating doctrines which I consider dangerous and unsound. I was unable to do so without prejudicing their defence and had to permit much propagandist matter of an irrelevant description to appear on the records of this case and to be expounded to you and to the audience. I have therefore reluctantly come to the conclusion that I ought to express my own opinion on the matter. I am not of course pronouncing what is actually the right doctrine in the matter. I am merely tentatively submitting certain doubts which I have to the orthodoxy of the position of the accused to your consideration.

The proposition is stated in the widest terms in the resolution and in the comments of the accused. It is that for one Muslim to kill another is "Haram" an act totally forbidden and which if not atoned for and re-

HEADS OF CHARGE TO THE JURY.

pened of, will expose the perpetrator to the penalties of hell. This is clearly stated in the Koran but the prohibition in that verse cannot be an absolute prohibition as are the prohibitions against *Zina* (fornication) or *shoirk* (polytheism). For it is admitted that there are two cases in which a Muslim may be lawfully slain, namely where he is himself a murderer and the family of the victim will not take the blood fine, and the case where a Muslim has been convicted (on proper evidence) of adultery. Moreover the verse does not provide for accident, self defence, error or the like. It is therefore one of those prohibitions which is relative and contingent but not absolute.

Its limitations and conditions must therefore be ascertained by independent enquiry and particularly by a consideration of the actions of laudable persons.

We have little guidance during the life of the Prophet, which will help us in the present age. The Koran is of course a perpetually binding law and not subject to fluctuation, being co-eternal with the Almighty, but the application of the rules to existing circumstances, depends on the condition of things at the time when we seek to apply it. During the life time of the Prophet the temporal kingdom extended over Arabia only. The Muslims were a homogenous People, speaking the same language, living the same sort of life, townsmen and pastoralists, under much the same sort of government that of noble chieftains, divided only by the deep lying feeling between Yemen and Mudharr, which for the moment was lulled by the supremacy of Islam. Its boundaries were the sea on three sides, and the shattered empires of Rome and Persia on the fourth. It needed no permanent army no salaried officials, no roads or fortifications. The army was the occasional levy of the tribesmen, the judges were the companions of the Prophet and the learned ancients, the administrators were the chiefs and the principal burghers, and the roads and the fortresses were the desert. Within 10 years of the death of the Prophet the empire of the Muslims extended over a vast area bounded by the Berber on the West, the revived Roman empire on the North and Turks on the East; it contained a vast heterogeneous population of very diverse origin, language, customs and faiths, accustomed to a highly centralised administration. All the requisites of empires had to be provided and paid for, and it became very soon apparent that neither the Koran nor the traditions adequately provided for the necessity of rule. It is related of an early caliph that the news of his election reached him while he was reading the Koran. He is said to have shut it with a sigh and to have said "This is my last time with thee"—meaning thereby, not that he intended to disobey the precepts of his

religion, but that he could not devote himself exclusively thereto. Accordingly very soon the rules of "Siasat began to be developed and pious Muslims begun to wonder. What is this secular code of use and wont which, is not contrary to the divine law, is at any rate not sanctioned directly by it? You will find innumerable discussion on this topic some persons going so far as to say that all kingship is unlawful, because the king must necessarily levy unauthorised taxes which he spends partly on his self-support, and because he must kill men for offences which are not made punishable by the religious law with death. There is an interesting discussion on this topic by an Indian Historian in the form of a dialogue between Ala-uddin Khilji and his Sheikh al Islam, but the approved opinion is, that while no man is *bound* to take the kingship yet if he *does* he is guilty of sin if he allows the temporal kingdom and the affairs of the Muslims to go to ruin for lack of the due enforcement of the necessary temporal rules, which must no doubt not *contravene* the sacred law, but are not directly *sanctioned* by it, and I have seen severe strictures written by pious men on kings who acted not like kings but like ascetics. But almost the first requisite of temporal rule is that the authority of the ruler should be upheld. Now when the Prophet and his immediate successors were alive there was no dispute in Islam, the church and state were conterminous and there could be no rival claimants to the temporal headship. Any Muslim who drew the sword against his fellow Muslim *must* be a rebel and a renegade. But the succession of Ali was challenged because the Beni Ummaya and the adherents of murdered Othman would not acknowledge him. Accordingly the first person to draw the sword against his fellow Muslims was Ali (with whom God is satisfied) the head of the Holy House, on the Day of The Camel. It is true that at the battle of Siffin, Amru Al Aaas, the general of Muawiya of the Beni Ummaiyya did much what the accused are said to have done, he imported into a purely temporal matter a question of religion and by binding the Koran to the lances of his soldiers forced Ali to submit to arbitration, but all reprobate this action; it is true also that for a short time Ali was officially cursed and that he was assassinated by a non-co-operator of the time, but all schools now regard Ali as one whose actions are worthy of imitation.

Thereafter the Beni Ummaiyya retained the Caliphate with some slight and temporary interruptions. Some of them were tyrants some of them great princes some of them pious and learned men, but none of them showed the slightest hesitation in putting down rebel or rival claimants, without much regard to the sanctity of the claimants or the validity of their claims. What Muslim Bin Okba and Ali Hajjaj did with the holy cities is known, as also

HEADS OF CHARGE TO THE JURY.

what Ziyad did in Irak. And why did Hussain Bin Ali go to Irak not, I think, to drink the waters of the Euphrates or the Tigris or to deliver lectures in Kufa or Basra but to maintain his right, sword in hand like a valiant prince. I can not therefore at once admit without doubt the proposition that it always is unlawful for Muslims to slay Muslims on the field of battle. But perhaps it may make a difference if the Muslims are attacking the Caliph.

For this position also I can find no authority. To begin with, the Caliphate may be disputed. Within 70 years of the Hijra 4 standards were displayed at Mecca of 4 princes each claiming to be Caliph. What is the simple minded Nawla or tribesmen to do in such a case? Is he to decide and decide rightly on pain of hell fire which is the right claimant? God does not compel you to impossibilities. The soldier can not be guilty of sin if he keeps his faith to his rightful patron or chief. The sin (if any) is on the chief and not on the soldier.

But many orthodox *princes* have stood against the Caliph. The Caliphate passed by War from the houses of Ummaiya to that of Al Abbas and the house of Al Abbas became thereon lawful Caliphs. Yet Abdur Rahman the Amir of Spain held out against Al Mansur, defeated his armies at Kairwan. Al Mansur did not curse him, he declared him to be the falcon of the Koreish. The Ulema of Cardova, Seville and Toledo, issued no Fatwas against him. He lived and reigned gloriously, and was the progenitor of a mighty line of princes, and for ages the protector of Islam in the west. After the reign of Al Mamun province after province fell away and became a principality under a separate prince. This process went on till after the reign of Al Radhi the Caliph had no territory under his immediate rule. All these princes recognized the Abbassid of the time as lawful khalif and read the Khutba in his name but none of them had the slightest hesitation in attacking him and defeating his forces and making him prisoner if he attempted to recover any actual territory. Princes like the Beni Buyya the house of Seljuk of Edessa, Khawaris Shah were all at one time or other warring against the Caliph or keeping him prisoner.

And how did the house of Ottoman get its doubtful claims to the Caliphate, not by election but by the marching of Salim on Egypt, the defeat of the Sultan of Egypt who was the representative of the Caliphate, and the forced abdication of the legitimate Abbassid Caliph (then stationed in Egypt) in his favour. It can not therefore be denied that orthodox princes have warred against the Caliph and coerced him in the exercise of his power by the fear of the sword without

incurring the guilt of sacrilege. And this doctrine of any particular sanctity in the office of the Khilafat seems to be a new thing among the Sunnis, invented, I believe by the very band of rebels and innovators who equally deposed Abdul Hamid. I was surprised to see in one of the papers in this case (I think) in one of the Fatwas, an assertion that the Caliph was the representative of *God*. I thought it was sufficiently known that God is universally and eternally present and does not need a deputy or representative. Also that on the day of Alastu the contract was between God in person and each individual soul of every man without deputy or intermediary and that therefore there is no priestly caste or profession or semi-divine ruler to stand between the creator and the creature. The Caliph is the representative of the Prophet but he is not supposed to have any share in the apostolic gifts. He is the temporal lord of the Muslims and may without sin be opposed by temporal weapons. I know that the Shiah's views are different: some of the extreme Shiahs holding very peculiar views as to the nature of the Imمامate—but the orthodox Shiah Imمامate is for the present in a state of abeyance and the Ismailis have not had a *reigning* Caliph for 800 years. I can not therefore think it established that it is an act worthy of damnation to war against the Caliph simpliciter.

But perhaps the meaning of the dictum may be that it is unlawful for Muslims to wage war against other Muslims in the service of non-Muslim princes; here we are not very well provided with authority of precept—because there have not till recently been considerable bodies of Muslims living under a non-Muslim prince; and likely to wage war with Muslims. In Spain the Muslims evacuated the country as the Christians reconquered it. In Sicily the Muslims were loyal soldiers of the Mun Normans and Hohenstauffen kings, but the wars of those princes were chiefly with Christians, and if they fought with Musalmans at all it was chiefly with the Fatmitis. In India when the Bahmani kingdom was established it was at continual war with the Hindu Kings Vijaya Nagar and the Vijaya Nagar kings used to enlist Arabs mercenaries from Hadrramaut. I believe that the Bahmani kings used at one time to put such mercenaries to death as guilty of assisting Kaffirs against a Muslim prince, but they soon abandoned that practice. Whether the slaughter or the abandonment thereof was done in accordance with any religious opinion I know not. The Mahrattas who broke down the Mahomedan dominion in India freely employed Mahomedan troops and whatever may have been the fate of Ibrahim Gardi I never heard of any Mahomedan soldier of Shivaji or the Peshwas being condemned by any Mahomedan tribunal to death as

HEADS OF CHARGE TO THE JURY.

a renegade. Haider Ali himself was for long in the service of the Hindu Raja of Maisur and fought for his master against the Mahomedan sovereigns of the Deccan and Karnatic but I never heard any one blame him on that account.

And look at the question from a reasonable point of view. An enlightened and civilized Mahomedan people is living in a fertile province under the benign sway of some Hindu power; bordering the plains are hills inhabited by ferocious Muslim tribes independent and continually raiding without attempt to conquer the plains below. Is the Mahomedan who fights to repel these tribes from the hearth and homes of the Mahomedan population to go to hell because, he does so in the armies of a Hindu Prince? But it may be said that this is *defensive warfare*. There is no real distinction between the offensive and defensive warfare. Aggressive warfare is at all times and circumstances a sin, but offensive warfare also at times and circumstances be a sin, and is the only possible form of defence. I think therefore, when we come to analyse it the meaning of the doctrine preached with so much rhetoric and learning by the accused is merely this, that, any Muslim soldier who fights in a war of which the accused disapprove is to go to hell. And leaving the dwellers in dark corners of mosque and the grubbers along old records to say what they think fit I would ask any Muslim who may be Sayyed and a Faris what he thinks of this doctrine that a Muslim may voluntarily engage himself in the service of his prince, may take his pay and provisions and be his partner in the glory of the kingdom, and then when the day of peril comes and his prince calls on his soldier for help, the soldier is to break his plighted oath, and the ties of fealty and leave his prince to be dethroned and slain, because his prince is a non-Muslim and his enemy is a Muslim. I can not believe that these are the true doctrines of a religion the prophet of which was the "best of men" and had the title of Al Amin.

These therefore are my views on this defence of the accused but as I have said it is perfectly immaterial for the purposes of this case whether these views be correct or not. If the proposition set forth by the accused be as alleged namely, that it is unlawful for any Muslim to serve in the British army at the present juncture and if it be religiously true and incontestable and if the accused conspired to bring it under the notice of the troops, then the greater is the guilt of the accused, because, the troops were more likely to be seduced than if it were wholly erroneous and absurd.

TRIAL OF ALI BROTHERS & OTHERS.

I have now done with this preliminary matter and I now come on to consider the *charges* against the accused and I will first deal with the charges under Section 131 for the ancillary sections. As I have pointed out it is for you to consider the evidence under these charges and return a verdict in accordance with the evidence. Any expression of opinion as to the facts which I may make, is not binding on you and it is your duty to reject such opinion if you do not agree with it.

Section 131 forbids an attempt to seduce a soldier of the King from his allegiance or duty. Such attempt is therefore an offence and it is punishable with a maximum sentence of transportation for life, and with lesser penalties. Section 120-B forbids persons from entering into a criminal conspiracy to commit an offence punishable with transportation for life or with certain lesser penalties. Whether such an offence is actually committed in consequence of the conspiracy or not, and section 120-A defines conspiracy as an agreement by two or more persons to commit (inter-alias) an illegal act or offence. It is there laid down that when the conspiracy is to commit an offence there need be no act done in consequence of the conspiracy to render the conspiracy criminal, and it is further laid down that it is not necessary that the offences contemplated should be the sole or ultimate object of the conspiracy. To give an example: suppose some people agreed to gamble in cotton. That is not an offence. They buy futures in cotton at a certain rate. The market begins to go against them. They agree to forge telegrams from America, saying that the American crop has been a total failure, and to corrupt some telegraph officer to send out these forged telegrams to various merchants as if they were genuine. If this agreement to forge telegrams passed beyond the initial stage of mere contemplation as a possibility and the gamblers actually make up their minds to do so, then they are guilty of conspiracy even if they do not after all procure to be issued such forged telegrams. So here, if the accused or any two or more of them agreed together to attempt to seduce the troops, whether that was the main object of their agreement or not, then such of the accused as entered into that agreement are guilty of the substantive offence of criminal conspiracy even if nothing further was done, and are punishable under Section 120-B and 115 which provides that when an offender abets a crime of the nature described which is not committed in consequence of such abetment he is liable to a maximum seven years rigorous imprisonment.

Our gamblers would of course be liable to more severe punishment if their agreement to forge telegrams from the initial stages of

HEADS OF CHARGE TO THE JURY.

agreement and preparation went into actual perpetration; and so any of the present accused would be more heavily punishable if any members of that conspiracy (Not necessarily the accused) went on to attempt actually to seduce the troops; the accused would then be punishable under Section 109 I. P. C. which makes the conspiracy punishable with the same punishment as that assigned to the offence.

It is not necessary in order that any member of a conspiracy should be punished for an act committed in pursuance of the conspiracy that he should have committed or even contemplated that *particular act*. It is enough if the act is committed by a member of the conspiracy and was a natural consequences of the conspiracy. Suppose A, B, C, D conspired to Kill E. It is agreed between A, B and C. that B. and C. should ask E. to dine with them and that B. and C. should poison E. E attends the dinner but does not eat anything. As he leaves the house he meets D who shoots him and kills him; B and C are liable for the death, even though they had never heard of or seen D. who had dealt exclusively with A. It would be different if D were not a member of the conspiracy and shot E out of private hostility. In that case D would alone be punishable for the murder, and B, C and A. merely for a conspiracy which had proved abortive. On the whole then the following are the questions as to which you must make up your mind.

Was there a conspiracy to commit an offence or to do a legal act by illegal means. ?

Was one of the objects of that conspiracy to attempt to seduce the troops from their allegiance and duty ?

Were the accused or any of them members of that conspiracy ? Did any member of that conspiracy whether the accused or not, actually attempted to seduce any soldier and if so was such attempt at seduction a natural consequence of the conspiracy ?

These questions cover the first two charges.

As for the first two questions conspiracy may be proved in several ways. Very often we get a traitor or spy who acquaints himself with the inner workings of the conspiracy and is admitted to the secret counsels of the chiefs thereof and details in Court what he has learnt. There is no such evidence here.

Or again you may seize papers and correspondence at the headquarters of the conspiracy or from the possession of some leading

TRIAL OF ALI BROTHERS & OTHERS.

persons in the conspiracy, and it may be apparent from a perusal of such papers that there was a conspiracy, and it may appear what its aims and methods were and who were the members of it. There is little such evidence here.

Or again you may have evidence that certain persons entered into a common course of conduct, they adopted a definite line of policy, they spoke in favour of it, they acted in a way which is explicable best by supposing that they had already agreed to support and carry out such policy. Then if the evidence makes it highly probable that they were so acting in furtherance of the common object of some conspiracy, you can legitimately deduce that there was a conspiracy and that the persons whose actions were apparently directed to the furtherance of such conspiracy were members of it. It is of course open to them to allege that their actions were purely fortuitous but then it is for them to prove their case, or at any rate to give some reasonable explanation of their conduct consistent with their innocence.

Let us take an example:— E, is found murdered in a river. It is proved that A, B, C, & D were great friends and all had common reasons for disliking E and wishing him out of the way. They were continually meeting together just before the disappearance of E. A asks E to dine with him in a lonely house and makes E drink; E's carriage comes for him, but B says to the coachman that E has already gone home, so that when E comes to leave he has to walk through lonely streets; C drives up a cab which he leaves at a certain point; D shoots E at that point, puts his body into the cab and drives it to the river where he throws the corpse in—A and B then write to the police and give the information that on the day of the murder they had seen E leaving by train for some distant city. The court might legitimately deduce from these facts that A, B, C and D were in a conspiracy to kill E, and that he had been killed in consequence thereof. But it is clear that it would be possible that A, B and C, had been acting innocently, only the prima facie case against them would be so strong, that the court might legitimately call on A, B, and C to prove their innocence. And if they failed to do so, it would be justified in convicting them on this circumstantial evidence.

The crown alleges that there was a far-reaching and wide-spread conspiracy which included among its objects the seduction of the troops. The accused deny this. I am much embarrassed as to this part of the case by the failure of the accused to defend themselves as to the facts and it was for that reason that I asked the accused to allow

HEADS OF CHARGE TO THE JURY.

a professional gentleman who is in their confidence to argue for them as *amicus curiae*, but they refused. So we must do the best we can by ourselves. My own opinion by which you are in no way bound is that there was conspiracy, but I shall try to put the case for and against this theory as fairly as I can.

There appears to be a body called the Khilafat Committee of which the accused are all either members or with which they are in sympathy. That those who are not members are in sympathy therewith appears to me shown by the fact that they all have at various times appeared at meetings of that body or of the conferences called thereby and have openly supported it. What the primary object and constitution of that body may be I know not. I presume that its original object was lawful, for it was allowed to continue its propaganda unchecked. There are laws against the sedition and treason. The law gives the executive power to pardon, but to refrain from applying the law in any case whatsoever, more particularly when the rights and interests of innocent third persons were affected by the failure to enforce the law, would in my opinion (as in the case of indiscriminate pardon of convicted offenders) go perilously near to the exercising of the illegal dispensing power. The Court can not without extreme indecency suppose that there has been any such unconstitutional act committed by those in authority and it must therefore presume that the aims and objects of this body were on the whole legal.

And it appears to me very likely that the movement was originally started with no particular intention to incite to illegal acts. It is quite likely that the intention was to strengthen the hands of the Pro-Turk party at home in their attempts to get the Allies to deal leniently with Turkey or at any rate to prevent the powers from supporting the Greeks. The friends of Turkey in this country could best do so by getting up a noisy and frothy agitation. This has of late been a very common policy in India. And from what M. Shaukat Ali said the other day it is not entirely beyond the reasonable bounds of conjecture—and the accused must be given the benefit of any conjecture that may help them that the agitation was at first looked on with favour if not encouraged by eminent persons both in India and in Europe. It would be a great weapon in the hands of the number of the Philo-Turk party if he could put pressure on the members of the Cabinet at home or on the body of Ambassadors abroad, by representing that Indian Moslem feeling was violently excited on the question of support to Venezilos or Constantine. There is thus nothing wildly improbable in the idea supported by the allegations of accused 7 that the Khilafat

TRIAL OF ALI BROTHERS & OTHERS.

movement met with certain amount of support at its inception. But even if that was not the case, and the movement was purely spontaneous, there would be nothing illegal or improper in an agreement among some Mahomedans to carry on an agitation in favour of Turkey ; even a very forcible agitation, as long as they did not agree to commit any crime in connection therewith or to carry it on by illegal means. Once it was in contemplation to carry on the agitation by illegal means or to support the agitation by committing the offence of abetting (that is inciting to) crime, then the agreement to agitate would become a conspiracy and all who joined in the conspiracy knowing that its objects were generally criminal would be guilty of every criminal act committed in furtherance of the conspiracy.

And it would seem difficult to suppose that the agitation long continued within legal bounds.

The particular illegal acts with which we are concerned in the present trial are the incitals of the troops to desert. As early as February 1920 we find Shaukat Ali speaking on this topic at Calcutta and declaring it unlawful for troops to remain faithful. We find him presiding in March at a meeting in the Surma Valley in Assam where the same doctrine is preached. Then somewhere in September or October an alleged Fatwa is obtained (to which accused 2 and 5 are signatories) in which it is laid down that it is unlawful for soldiers to remain in the army. Then in November the proceedings of the so-called body of the ulama is obtained in which the same doctrine is upheld. Then in February 1921 we have a republication of the alleged Fatwa signed this time inter-alia by the accused 2, 4, 5 wherein the same doctrine is established, and all readers are exhorted to bring it to the notice of persons concerned. A large number of copies of this pamphlet were distributed by the Central office of the Khilafat Committee and there was a further large distribution of a reprint. This was between February and July 1921. Accused 5 and 7 are Secretaries of the Khilafat Committee. There are 3 other secretaries. Abdul Ghani (who is not an accused person in this case) says, that he was solely responsible for the ordering and the circulation of this pamphlet.

Then in June accused 1, 3, and 7 went to the large Military Station of Poona where a meeting was held which these accused attended, and where the accused 7 Shaukat Ali made a speech in which he said that a fund was being established to help in the support of soldiers who left their service. Then in Gokak on the 19th June there was another Khilafat meeting where accused 1 proposed and accused 3

HEADS OF CHARGE TO THE JURY.

seconded a resolution which declares it to be totally unlawful for a musalman to remain in the military service of the British Government. I have not read you all these speeches, resolutions fatwas and proceeding again because they are no doubt fresh in your memory. The accused have not challenged their authenticity or the accuracy of the reports of or translations; they do not say that they bear any other interpretation than that which is apparent.

We now come to the Karachi Conference which was a meeting of the general body of the khilafatists. It was held with great publicity in a large town to which Mahomedans of all classes resort, which is an embarkation centre and a military station, and in some ways the commercial capital largely inhabited by Musalmans of the fighting classes.

Accused 1, 6, 7 arrived in Karachi on the 7th July and went in procession round the city. Accused 1 and 7 put up in a girl's school near the place where the conference was to be held. Accused 3 also put up there. A Subjects Committee was formed which held a meeting at the girls school twice on the ninth of July. Accused 1, 3, 6 and 7 attended one or both meetings. In the evening of the ninth July there were various resolutions proposed and passed and among them was this resolution No. 6.

"This meetings of the All India Khilafat Conference heartily congratulates Ghazi Mustafa Kemal Pasha and the Angora Government upon their magnificent victories and the success of their most desperate (or self sacrificing) endeavours in up-holding the laws of Islam and this meeting prays to Almighty God that they may soon succeed in expelling the whole of the armies of the foreign Governments from every nook and corner of the Turkish Empire.

In addition this meeting clearly proclaims that it is in every way religiously unlawful for a Mussalman at the present moment to continue in the British Army, or to induce others to join the army. And it is the duty of all the Mussalmans in general and the Ulema in particular to see that these religious commandemnts are brought home to every Mussalman in the army.

Further more this meeting also announces that if the British Government were to take any military measures against the Angora Government directly or indirectly, openly or secretly, then the Mussalmans of India will be compelled to commence breaking laws, i. e., practise civil disobedience with the concurrence of the Congress and to proclaim in the forthcoming annual session of the Congress to be held at Ahmedabad

TRIAL OF ALI BROTHERS & OTHERS.

the complete independence of India (and) the Indians and the establishment of a republic Government in India."

The accused No. 1 introduced it by a few words saying what a very important resolution it was, and how it was the essence or marrow of the conference. The resolution was then moved by accused 2 who supports it in a long speech, in which he tells a story about a deserter from the British Army to the Turks, who was killed by one of his comrades for deserting and whose corpse on inspection showed evidently that he was accepted a martyr, whereas the soldier who killed him, being afterwards killed himself showed obvious symptoms of damnation. The speech is very vehement and strongly in favour of every part of the resolution.

Accused 3 then supported the resolution. He supports the resolution on the general grounds that it is religiously unlawful and politically inexpedient to support the Government in any way.

Accused No. 4 is a Sindhi Pir. He translated the resolution into Sindhi and spoke in favour of it though we have not got his speech before us.

Accusee No. 5 Nisar Ahmed made a very short but very violent speech in support, adducing what he supposed to be strong religious reasons for desertion.

Then accused 6 spoke. Accused 6 is a Hindu and claims to be the Shankaracharya of one of the great dioceses into which India is divided, and is a strong sympathiser with the Khilafatist movement. He made a speech of a non-committal character which does not touch on the question at issue, but asserted the need of Hindu Muslim unity in face of the aggressive policy of the British which menaced both, and he concluded by saying that the Muslims ought to obey the rules of their religion just as the Hindus are bound to obey the rules of theirs.

Mahomed Ali the president, accused 1, then asked the audience their opinion, and requested them if they wished to pass the resolution to stand up and pass it standing, which they did. Accused pointed out the importance of the resolution and asked that God might give him and his audience strength to carry it out.

Shoukat Ali did not speak on this occasion, but stood up in support of the resolution. He was at the time sitting on the dais.

The correctness of these speeches is not denied. Next day on the 10th Shoukat Ali went to a town called Naushahro Feroz in Sindh and

HEADS OF CHARGE TO THE JURY.

presided at a District Conference and made a speech which covered a large area. *Inter alia* he said it is Haram to serve in the army.

These are the activities of the accused in the present case from proof of which the Crown asks us to deduce that there was a conspiracy to seduce troops and that the accused were parties to it. To me it seems to be clear that however lawful and constitutional a body of the Khilafat Committee may have been in its origin and however permissible the agitation it carried on at first, section of it soon began to rely on a dangerous religious propaganda and that it saw that its efforts were more likely to be crowned with success if instead of a bogus agitation it began a really dangerous one and the menace which was more likely than any other to have an effect on politicians here, and in England was a threat of tampering with the loyalty of the troops and in order to apply that menace it began to preach this doctrine of the unlawfulness of the military service in open and public places in such circumstances that the news of this opinion was likely to reach the troops and to fortify itself by procuring the alleged fatwas and proceedings of the so called ulema so that it might have these to appeal to if the orthodoxy of its position were challenged and began to circulate those opinions to the public. From that moment in my opinion the Khilafat agitation became illegal and those who joined it were members of a conspiracy regardless of the fact whether any actual attempts were made directly to seduce the troops.

That an appeal to the troops to desert is a criminal offence, cannot be disputed. It is no crime under section 131 to urge people not to *join* the army, because no one is legally bound to do so, but Col. Gwyer's evidence makes it clear that the soldier is not at liberty to resign his service except at the end of the time for which he was enlisted, and that to leave the army before the arrival of that time would be an act in derogation of his allegiance and duty.

Personally I do not wonder at the accused taking these violent decisions. You have seen them in Court, heard their statements in the lower Court, and heard their speeches here, and you can have no doubt that with the exception of No. 6 they openly glory in their hatred of the Government of India and the British name.

The accused however say there was no conspiracy and as I have pointed out before however violently seditious or unreasonable their acts and speeches may have been they are not to be convicted in respect of these charges unless there was a conspiracy.

TRIAL OF ALI BROTHERS & OTHERS.

I may first note that the accused do not admit the translation of a material part of the resolution to be correct. It runs in our version: "It is the duty of all the Mussalmans in general and the Ulema in particular to see that these religious commandments are brought home to every Mussalman in the army". The true version is "the commandments of religion in respect of this matter". But I do not see that this helps the accused much. Their speeches and their endorsement of the Fatwas (so-called) left no doubt what they conceived the dictates of religion to be.

The Mahomedan accused say also that there was no *need* of conspiracy. It is, they allege a clear precept of the law of Islam that no Mussalman should kill another. I will for the present purpose admit that this is so. They say also that it is the bounden duty of every Mussalman, if he sees a man infringing the law of Islam to point out the error of his ways to the offender. Therefore they say that individually and without any previous concert they proceeded to preach these doctrines. I do not believe this. Admitting that the law of Islam makes it incumbent on every pious Mahomedan to make himself a busy body, and go round preaching to his brethren at all times and seasons in respect of any irregularities he may perceive his brethren to be committing instead of extending his own life and perhaps quietly admonishing his friends. I do not see why the accused should all unanimously have picked out *this* particular sin (if it be such) to reprove. There is a fine field for missionary activity among pious Mussalmans. The accused might have gone to Stamboul or Angora and admonished their brethren to give up the reprehensible practices of slaughtering zimmis and mustamins, or to the Hajjaz to admonish the ruler thereof to cease from what the accused consider to be his rebellion against the Sultan, or near-at home they might have preached against fornication, sodomy, wine-bibbing, the use of silk apparel, the excessive use of music, the neglect of prayers, fasting and pilgrimage and the like actions *haram* and *makruh*, which are not wholly unknown in India or might even have admonished their Hindu allies as to the dangers of shrik or polytheism. They ask us to believe that they fortuitously and without previous concert picked out this particular action as one in respect of which they thought their duty impelled them to preach. I find it difficult to believe this.

In the case of accused 5 Nisar Ahmed he is alleged in the speech for the defence to have been suffering from fever at the time of the conference and to have made a very short speech more or less fortuitously. This may be so, but it is a very bitter speech and well calcu-

HEADS OF CHARGE TO THE JURY.

lated to impress the audience with the sinfulness of serving in the army. He is also one of the signatories of the so called Fatwa. I am myself convinced that he was well aware of the nature of the agitation, highly approved it, and furthered it to the best of his ability.

In the case of the Hindu accused No. 6. his story is that he was totally unaware of the nature of the resolution to be moved. He does not know he says, (as is very probably the case) Hindustani. He was not a member of the Subjects Committee and merely came to the conference to give the weight of his "pontifical authority" to any resolutions that may be passed, without troubling to examine their nature. If this is true he is an almost intolerably frivolous and irresponsible person, but he is not to be punished for that. His speech is no doubt highly non-committal and of course the subject was one of which he had no authority to speak. On the other hand he is no doubt a Khilafat sympathiser and prepared to further the cause of the Khilafatists to the best of his ability. You must consider his case on its own merits very carefully.

It is alleged by the witness Abdul Ghani that his obtaining and circulation of the book of fatwas through the Central Committee was on his own responsibility and that none of the accused were responsible for this action on his part. This seems very difficult to suppose unless the system in force in the office of the Khilafat Committee is extra-ordinarily lax, but it may be so. But that does not, I think help the accused much. In my opinion the obtaining and circulating of the fatwa is a side branch of the conspiracy clearly intended to further its general aims, and the accused are responsible for it even if they knew nothing about it.

This I think is all the evidence and the arguments for and against the accused. On the whole I come to the conclusion that there was a conspiracy to seduce the troops and that some of the accused were members of it but this is only my opinion. You must form your opinion and are in no way bound by mine.

The next point is as to the actual attempt to seduce the troops. As regards this, it would appear that it was not the official or decided policy of the Khilafatists to start an active campaign of seduction of the troops by direct overtures on a large scale at present. It was enough for the present purposes if a sense of doubt and uneasiness spread in the minds of the troops and this would best be done by preaching the doctrine of the duty of desertion openly under such circumstances, that the troops were likely to hear of it from their friends

TRIAL OF ALI BROTHERS & OTHERS.

and associates. We have it that from the leaders of the movement. That would not amount to an attempt to seduce. But it is further in evidence that a leaflet was circulated and addressed to Mussalman officers in several regiments, in which this doctrine was preached. It does not refer to the resolutions of the Khilafat Conference (except perhaps inferentially). It purports to be an abstract of the so called fatwa. It contains two gross errors in Arabic in the quotation from the Koran and it is therefore very improbable that any of the accused saw it before its final printing. There is nothing to connect the accused with the issue of it. On the other hand it was issued by some one in sympathy with the propaganda of the accused, and if such person was a co-conspirator, then the accused would be guilty of the offence of actually trying to seduce the troops even if they knew nothing about the leaflet, or its issue. On the other hand it would be no means impossible to come to conclusion that it was issued by some enemy of England who was not a member of the conspiracy and who was probably a Hindu. In that case the accused would not be guilty of the offence of actually attempting to seduce the troops. This concludes the matter which is before you as a jury and I now come on to consider the charges on which I must invite your opinion as assessors. The opinions I give are purely provisional and I shall reconsider them after you have given your opinion. The accused I is charged with having made a statement at the Khilafat Conference that "it was in every way unlawful religiously for a Mussalman to remain in the British Army" with the intention of causing or knowing that it was likely to cause Mussalman officers and soldiers to disregard or fail in their duty. This is an offence under section 505 I. P. C.

The accused admits having made that statement but he says it is a true statement. That may be. But that does not exonerate him from guilt if he *intended* that the making of such a statement should induce Mussalman soldiers to fail in their duty. It is only when there is no such intent, that making of a true statement calculated to act in that way on troops is excusable.

Suppose the Government is sending troops to a very unhealthy place like West Africa. The owner of some patent medicine writes a letter to all the officers commanding in the regiments detailed for the expedition and points the horrors of the climate in vivid colours saying that the only hope of surviving is to fortify the constitution with daily use of Potts Patent Pilules. The law says that he is not guilty of an offence under section 505 because the statement is true as to the climate and

HEADS OF CHARGE TO THE JURY:

though calculated to alarm the troops and make them reluctant to proceed on the expedition, was not made in order to produce that effect by the quack, but for his own private profit. But suppose then some wily agitator sets hold of the circular and reprints it and sends it to every man in the regiments detailed for duty, saying "You see what the eminent authority Dr. So and So says about the place to which the Government is sending you" hoping and expecting that the troops will refuse to go or go reluctantly and sullenly. Then the law says he is guilty because his intent is evil. Here the question therefore would be not whether Mahomed Ali believed the statement to be true but whether he made with the sincere wish to cause his brethern to repent or with the wicked intention of making them mutiny or desert. He himself seems to leave no doubt on the point. His only regret is that the troops are not yet contaminated and that there is at present no chance of a mutiny on the scale of 1857.

I had some doubts at first as to whether an expression of opinion by a private person, could be a statement within the meaning of section 505. For instance if some one sent round a circular saying "Mr. Smith is of the opinion that soldiers are sinful men, that would not be a statement of the character referred to in Section 505 because it is not very probable that any soldier would pay much attention to the opinion of an unknown Mr. Smith. But I now think that Mahomed Ali, as President of the Khilafat conference, is a person of sufficient importance to make his opinion have some weight with Mahomedans in general.

The other accused are charged with having conspired with accused No. 1 to commit the said offence. This conspiracy is not the far reaching conspiracy referred to in the previous charges. If the other accused or any of them agreed with Mahomed Ali that such an opinion should be published even five minutes before the uttering of such opinion with that criminal intent then they are clearly guilty of conspiring with him. Now all the accused were there in Karachi and had opportunities of talking over the matter with Mahomed Ali and they showed by their signs and speeches that they approved of his formulating that opinion. It is not therefore a very violent deduction that they agreed with him that he should utter it and that they should support it. The next charges against Mahomed Ali is as to abetment by the public of an offence under section 505 or 131. It is in reference to the same resolution which was introduced by him at the Karachi meeting and that resolution urges on all Mussalmans in general and the Ulema in particular of the duty of bringing this statement to the notice of the troops. I have already expressed my provisional opinion that this statement is of

TRIAL OF ALI BROTHERS & OTHERS.

the character referred to in section 505 and is calculated to produce the effect made penal in section 131, and the number of Mussalmans present was considerably more than ten and the resolution was intended to reach the public in general. It seems to me therefore that this is a case where there was an abetment by the accused of the public consisting of more than ten persons, to commit these offences the punishment for which is laid down in section 117 I.P.C. Similarly as the other accused agreed with the accused 1 that he should commit this offence of inciting the public or the Mussalmans and the ulema to spread these statements or make these attempts with that criminal conspiracy in respect of those that committed offence of abetment.

Now gentlemen I have finished with this troublesome business but I think I should recapitulate. I asked you to clear your minds of any prejudices either for or against the prisoners, and to do your duty without fear.

I told you that the religious question did not enter into the case at all. If the accused have broken the law of the land they must be punished by the law of the land and that it did not matter to us whether they were acting under the impulsions of religion. I gave you my reasons for supposing that their views as to the religious questions were wrong, but I warned you that I had no authority to pronounce thereon and recommended you to assume that they were right.

I then told you that for two or more persons to agree to commit an illegal act itself an illegal act (that of conspiracy) whether or not anything is done in consequence of such agreement and that in my opinion there was such an illegal conspiracy of which some of the accused were members and which had among its objects that of seduction of the soldiers. I gave you the evidence for and against as also the arguments of the accused and begged you to make up your own mind on this point, my opinion being by no means binding on you particularly as regards No. 6.

Then I went on to deal with the further questions of whether any actual attempt to seduce troops had been committed by some of the conspirators in furtherance of the said conspiracy and gave you my doubts on the subject, leaving the matter on your own finding.

You must now consider your verdict and return a finding whether the accused or any of them are guilty or not guilty of the offences connected with section 131, other than those referred to in the 5th head of charge.

VERDICT OF THE JURY.

You will then give your opinion individually as assessors on the other charges which are no doubt fresh in your memory and which I need not recapitulate.

(Sd.) B. C. KENNEDY,
Judicial Commissioner of Sind.

1-11-21.

—o—
Ex. No. 114.

IN THE COURT OF THE JUDICIAL COMMISSIONER OF SIND.
SESSIONS COURT JURISDICTION.

—
SESSIONS CASE No. 33 OF 1921.

Crown, *versus* Mahomed Ali and 6 others.

Verdict of the Jury.

The Jurors retire and return after an absence of 2 hours 15 minutes and state through their foreman that they unanimously find the accused not guilty of both charges.

(Sd.) B. C. KENNEDY,
Judicial Commissioner of Sind.

—o—
Ex. No. 115.

IN THE COURT OF THE JUDICIAL COMMISSIONER OF SIND.
SESSIONS COURT JURISDICTION.

—
SESSIONS CASE No. 33 OF 1921.

Crown, *versus* Mahomed Ali and 6 others.

Finding.

The Court not thinking it necessary to disagree with the Jurors finds that the accused Mahomed Ali, Hussain Ahmed, Saifuddin Kitchlew, Pir Ghulam Mujadid, Nisar Ahmed, Krishna Tirathjee and Shoukat Ali are not guilty of the charges under Sections 120-B/115 with 131 and 120-B/109 with 131 and acquit and discharge them.

(Sd.) B. C. KENNEDY,
Judicial Commissioner of Sind.

1st November 1921.

TRIAL OF ALI BROTHERS & OTHERS.

Ex. No. 116.

**IN THE COURT OF THE JUDICIAL COMMISSIONER OF SIND,
SESSIONS COURT JURISDICTION.**

SESSIONS CASE No. 33 OF 1921.

Crown versus Bharti Krishna Tirithji Venkatraman.

To,

THE JAILOR OF THE DISTRICT JAIL AT KARACHI.

You are hereby informed that the accused aforesaid charged under Sections 131, 120-B—109, 505—109 and 117—109 was acquitted and discharged by the Sessions Court this day.

Dated this 1st day of November 1921;

Seal of the Court of the Judicial Commissioner of Sind).

By Order,

(Sd.) **ATMARAM TIKAMDAS,**

*for Registrar of the Court of the Judicial Commissioner
of Sind.*

—o—
Ex. No. 117

IN THE COURT OF THE JUDICIAL COMMISSIONER OF SIND.

SESSIONS CASE No. 33 OF 1921.

Crown, versus Mahomed Ali and 6 others.

Opinion of the Assessors.

The case for the prosecution having been over the Assessors are called upon to give their opinion. Mr. Ramchand Tulsidas is of opinion that the charge No. 3 is proved against Mahomed Ali because the resolution No. 6 was likely to cause the Muslim soldiers to fail in their duty.

As to charge No. 4 accused with exception of No. 6 have all abetted No. 1. Accused 6 to be given benefit of the doubt.

Charge No. 5 proved against accused No. 1. The resolution being put to a gathering of more than 10 persons.

THE UNIVERSITY OF CHICAGO
LIBRARY
1100 EAST 58TH STREET
CHICAGO, ILL. 60637

THE UNIVERSITY OF CHICAGO
LIBRARY
1100 EAST 58TH STREET
CHICAGO, ILL. 60637

THE UNIVERSITY OF CHICAGO
LIBRARY
1100 EAST 58TH STREET
CHICAGO, ILL. 60637

THE UNIVERSITY OF CHICAGO
LIBRARY
1100 EAST 58TH STREET
CHICAGO, ILL. 60637

THE UNIVERSITY OF CHICAGO
LIBRARY
1100 EAST 58TH STREET
CHICAGO, ILL. 60637

THE UNIVERSITY OF CHICAGO
LIBRARY
1100 EAST 58TH STREET
CHICAGO, ILL. 60637

THE UNIVERSITY OF CHICAGO
LIBRARY
1100 EAST 58TH STREET
CHICAGO, ILL. 60637

THE UNIVERSITY OF CHICAGO
LIBRARY
1100 EAST 58TH STREET
CHICAGO, ILL. 60637

THE UNIVERSITY OF CHICAGO
LIBRARY
1100 EAST 58TH STREET
CHICAGO, ILL. 60637

THE UNIVERSITY OF CHICAGO
LIBRARY
1100 EAST 58TH STREET
CHICAGO, ILL. 60637

THE UNIVERSITY OF CHICAGO
LIBRARY
1100 EAST 58TH STREET
CHICAGO, ILL. 60637

THE UNIVERSITY OF CHICAGO
LIBRARY
1100 EAST 58TH STREET
CHICAGO, ILL. 60637

JUDGMENT.

Charge No. 6. All accused except No. 6 abetted No. 1. I have not taken into account the deep religious feelings of the accused.

Assessor No. 2, Mr. Critchel concurs.

Assessor No. 3, Mr. De Cruz concurs.

Assessor No. 4 disagrees.

As regards charge No. 3 accused 1 is not guilty and so are all the accused on the other charges.

Assessor No. 5 Mr. De Souza agrees with the foreman.

(Sd.) B. C. KENNEDY,
Judicial Commissioner of Sind.

1st November 1921.

Ex. No. 118.

IN THE COURT OF THE JUDICIAL COMMISSIONER OF SIND.
SESSIONS COURT JURISDICTION.

SESSIONS CASE No. 33 OF 1921.

The King Emperor,

versus.

Mahomed Ali and 6 others.

J U D G M E N T .

I accept the verdict of the jury in respect of the charges under Sections 120-B. and 131, I. P. C. I have considered the opinion of the assessors as regards the other charges. I agree with the opinion of the majority of the assessors and find that accused No. 1, Mahomed Ali made a statement on the 9th July 1921 at Karachi calculated to cause the Musalman Officers and Soldiers in the Army of His Majesty to disregard or fail in their duty in that as he made it with the intention of causing such an effect, the truth of it is not material. I therefore find him guilty of an offence under section 505, I. P. C.

Agreeing also with the opinion of the majority of the assessors, I am of the opinion that all the other accused with the exception of accused No. 6 conspired with Mahomed Ali and agreed with him that he should make the statement that he did make with the intention

TRIAL OF ALI BROTHERS & OTHERS.

of producing such an effect on the Musalman Officers and Soldiers in the Army of His Majesty.

As regards accused No. 6, after hearing the opinion of the assessors I am of the opinion that there is a fair doubt as to whether he conspired.

Agreeing also with the opinion of the majority of assessors I am of opinion that the accused No. 1 Mahomed Ali at the same time and place in the same way, abetted the commission of the offence punishable under section 505 by bringing that statement specifically to the notice of the public there assembled at the meeting and by urging them to bring it home to every Musalman in the Army. I think therefore that he committed an offence punishable under section 117, I. P. C. with 505 and 131, I. P. C.

Agreeing also with the opinion of the majority of the assessors I find that all the other accused with the exception of accused No. 6, (Bharti Krishna Tirathji) conspired with accused No. 1 in the commission of this offence by agreeing with him that he should make the statement which he did make with the same intent, well knowing that it would so direct or incite the public to bring such statement to the notice of the Mahomedan soldiers and troops.

THE SENTENCE.

(To accused No. 6.) The Court accepts your explanation of your action and agreeing with the jury and the assessors, I find you not guilty and acquit and discharge you of all the charges.

(To the other accused). Agreeing with the verdict of the Jury I find you not guilty in respect of the offences under sections 120-B and 131 and acquit and discharge you as regards those offences.

I find you accused No. 1 guilty of an offence under section 505, I. P. C. and sentence you to undergo 2 years rigorous imprisonment.

I find you accused 2, 3, 4, 5, and 7 guilty of conspiring with accused No. 1 to commit the said offence and sentence you under sections 109 and 505, I. P. C. to undergo rigorous imprisonment for 2 years.

I also find you accused No. 1 guilty of an offence under section 117 with 505 and 131, I. P. C. and you accused Nos. 2, 3, 4, 5 and 7 guilty of conspiracy in respect thereof with accused 1 under section 109 and

WARRANT OF COMMITMENT.

117 with 505 and 131 and sentence you to undergo two years rigorous imprisonment ; the said sentence to run concurrently with those passed under the 3rd and 4th charges.

(Sd.) B. C. KENNEDY,
Judicial Commissioner of Sind.

1st November 1921.

Note at the end of Judgment.

N.B.—The charge to the Jury is to be attached and read as part of this judgment and any copy of this judgment is to include a copy of the charge.

(Sd.) B. C. KENNEDY,
Judicial Commissioner of Sind.

4th November 1921.

Ex. No. 119.

Warrant of commitment on a sentence of imprisonment or fine if passed by a Magistrate or Sessions Court.

(SECTIONS 245, 258, 306 AND 309.)

To,

THE JAILOR OF THE DISTRICT JAIL AT KARACHI.

Whereas on the 1st day of November 1921, 1, Moulvi Hussein Ahmed ; 2, Saifuddin Kitchlew ; 3, Pir Ghulam Mujadid ; 4, Moulvi Nisar Ahmed ; 5, Shoukat Ali prisoners in case No. 33 of the calendar for 1921, convicted before me of the offences punishable under Sections 505-109 and 117-109 of the Indian Penal Code and were sentenced to rigorous imprisonment for 2 years under each offence, the sentences to run concurrently.

This is to authorise and require you the said Jailer to receive the above named persons into your custody in the said jail, together with this warrant, and there carry the aforesaid sentence into execution according to law.

Given under my hand and the seal of the Court this 1st day of November 1921.

(Seal of the Court of the Judicial Commissioner of Sind.)

(Sd) B. C. KENNEDY,
Judicial Commissioner of Sind.

(Sd.) ATMARAM TIKAMDAS,
Assistant Sealer.

TRIAL OF ALI BROTHERS & OTHERS.

Age of convict (not known).

Place of residences, Deoband, Amritsar, Matiani, Cawnpore, Rampore, respectively.

Plea—not guilty.

Opinion of the Assessors. Majority guilty.

Offender whether to be classed as habitual or no. No.

Ex. No. 120.

Warrant of commitment on a sentence of imprisonment or fine if passed by a Magistrate or Sessions Court.

(SECTIONS 245, 258, 306 AND 309.)

To

THE JAILOR OF THE DISTRICT JAIL, KARACHI.

Whereas on the 1st day of November 1921, Mahomed Ali the prisoner in Case No. 33 of the Calendar for 1921, was convicted before me of the offence punishable under Sections 505 and 117 of the Indian Penal Code and was sentenced to Rigorous imprisonment for 2 years under each section, the sentence to run concurrently.

This is to authorise and require you the said Jailer to receive the said Mahomed Ali into your custody in the said jail, together with this warrant, and there carry the aforesaid sentence into execution according to law.

Given under my hand and the seal of the Court this day 1st of November 1921.

(Seal of the Court of the Judicial Commissioner of Sind.

(Sd.) B. O. KENNEDY,

Judicial Commissioner of Sind.

(Sd.) ATMARAM TIKAMDAS,

Assistant Sealer,

Age of convict. (No known).

Caste. Mahomedan.

Plea : Not guilty.

Opinion of the assessors. Majority guilty.

Offender whether to be classed as habitual or no. No.

PUBLIC PROSECUTOR'S APPLICATION.

PUBLIC PROSECUTOR'S APPLICATION.

IN THE COURT OF THE JUDICIAL COMMISSIONER OF SIND. SESSIONS COURT JURISDICTION.

Crown vs. Mahomed Ali and others.—ACCUSED.

APPLICATION UNDER SECTION 269 AND 309 C. P. C.

It is prayed on behalf of the Crown that this Honourable Court will be pleased to give judgment on the 1st charge in this case.

When opening the case the Crown referred to S. 269 (3) C. P. C. and rule 3 chapter XIV of the Court of the J. C. and pointed out that the first charge was triable by the Court with the assistance of the assessors. The whole case proceeded on that basis, the opening and closing address of P. P. and the address of the accused repeatedly differentiated between the first charge which was triable by the Court and the second charge which was triable by the Jury.

What was said by the Court on the return of the Jury after considering their verdict could not be heard at all in the Hall. The Jury was sitting at a table on the dais and touching the desk at which the learned Judge was sitting. After the Jury gave their verdict and the assessors their opinion, Judgment was dictated to a short-hand writer, sitting on the dais on the far side of the learned Judge. Not a word of what was said by the Court to the Jury or to the short-hand writer could be heard in the Hall.

The P. P. therefore asked to be allowed to see the draft judgment when submitted in long hand for correction before it was signed. This has now been shown to him and it appears from it that this Honourable Court intends to accept the opinion of the assessors on the first charge as though it were verdict of a Jury.

It is respectfully submitted that the first charge must be decided under section 309 (2) C. P. C. by this Honourable Court when it passes Judgment on the other charges triable and actually tried by it, as provided by S. 269 (3) C. P. C. and rule 3 chapter XIV of the Rules of the Court of the J. C. of Sindh. The whole trial has proceeded throughout on this basis and it is respectfully submitted that the parties cannot be deprived of the rights of appeal on the facts by the Court treating the opinions of the Assessors in an "Assessor case" as if they were a verdict of a Jury.

TRIAL OF ALI BROTHERS & OTHERS.

From the copy of the "Heads of the Charge" to the Jury just received from the Court it appears when charging the Jury the opinion of the Court was, that there was a far-reaching and wide-spread conspiracy which included among its objects the seduction of the troops." It also appears that the Court went on to say in its charge that "From that moment (when the doctrine of the unlawfulness of the military service began to be preached) in my opinion the Khilafat agitation became illegal and those who joined it were members of a conspiracy regardless of the fact whether any attempts were made directly to seduce the troops.

Attention is respectfully solicited to the decision reported in 9 Bombay Law Reporter at page 1057 and it is prayed that this Honourable Court will be pleased when passing Judgment on the other charges triable by it to give Judgment on the first charge also after considering the opinions of the assessors on this charge.

(SD.) T. G. ELPHINSTON,
Public Prosecutor for Sind.

Karachi, 3rd November 1921.

JUDICIAL COMMISSIONER'S ORDER.

Read application of the P. P. dated 3rd November 1921, in Sessions case 33 of 1921.

I am sorry there has been this mistake due to the bad acoustic properties of the Court. I am afraid it is too late for me to do anything.

I am still of the opinion that where there are two charges one triable by the judge with a Jury and the other by the Judge and Assessors and these charges are very closely connected, so that it will be impossible to find the accused guilty on the assessors charge without coming to such a decision on facts that it would have been necessary to find the accused guilty on the Jury charge also had that been triable by the assessors, the Judge can leave the whole case to the Jury. To act otherwise, would, I think, be to destroy any sense of responsibility in the Jury. I have always myself proceeded on those lines in Jury cases. I did so in the present case with more assurance because the charges were originally one and were only divided in this court (as I thought) for convenience and for the better information of the accused.

JUDICIAL COMMISSIONER'S ORDER

In any case the question is rather academic because as far as I can see had I found the accused guilty on the first charge, I should not, as I was not prepared to refer the Jury's finding on the second charge to the High Court, have passed any other sentence than I did. If these views of mine are wrong they can be tested if necessary by an appeal. But of course I cannot now change my judgment on a material point after dictation to the shorthand writer though the judgment is not yet signed. I therefore reject this application on the ground that the judgment is already pronounced. I do not think that the fact that circumstances made it impossible for my judgment to be heard makes any difference.

(Sd.) B. C. KENNEDY,
Judicial Commissioner of Sind.

4-11-1921.

WITHDRAWAL PROCEEDINGS AGAINST SHOUKAT ALI

IN THE COURT OF THE JUDICIAL COMMISSIONER OF SIND.

SESSIONS COURT JURISDICTION.

SESSIONS CASE No. 34 OF 1921.

At a Court of Criminal Sessions held at Karachi, before B. C. Kennedy, Esq., I.C.S., Judicial Commissioner of Sind this 3rd day of November 1921 the following accused person Shoukat Ali of Rampur,

Committed for trial by S. M. Talati, Esq., City Magistrate of Karachi, is placed at the bar and is charged with having on or about the 10th day of July 1921 at Karachi delivered the speech reported in Ex. No. 4 and 6, at the Khilafat Conference in which he attempted to excite disaffection towards the Government established by law in British India and secondly that he on or about the same day and at the same time during the course of the same speech attempted to promote feelings of hatred or enmity between the English and Indian classes of H. M.'s subjects and thereby committed offences punishable under sections 124-A and 153-A of the Indian Penal Code and within the cognizance of this Sessions Court.

Mr. T. G. Elphinston, Public Prosecutor for Sind appears for the Crown and applies for permission to withdraw. The Court permits such withdrawal and therefore acquits and discharges under section 494 C. P. C., Shoukat Ali of Rampur of the offence under section 124-A, 153-A, I. P. C. in respect of the speech referred to in the charge.

(Sd.) B. C. KENNEDY,
Judicial Commissioner of Sind.

3rd November 1921.

WITHDRAWAL PROCEEDINGS AGAINST MAHOMED ALI.

IN THE COURT OF THE JUDICIAL COMMISSIONER OF SIND.

SESSIONS COURT JURISDICTION.

SESSIONS CASE No. 35 OF 1921.

At a Court of Criminal Sessions held at Karachi, before B. C. Kennedy, Esq., I.C.S., Judicial Commissioner of Sind, this 3rd day of November 1921 the following accused person :—Mahomed Ali of Rampur,

Committed for trial by S. M. Talati, Esq., City Magistrate of Karachi, is placed at the bar and is charged with having on or about the 10th day of July 1921 at the Idgah Maidan at Karachi delivered, the speech reported in Ex. 5 before large audience in which he attempted to excite disaffection towards the Government established by law in British India and thereby committed an offence punishable under section 124-A of the Indian Penal Code and within the cognizance of this Sessions Court.

Mr. T. G. Elphinston, Public Prosecutor for Sind appears for the Crown and applies for permission to withdraw. The Court permits such withdrawal and therefore acquits and discharges under section 494 C. P. C. Mahomed Ali of the offence under section 124-A, I. P. C. in respect of the speech referred to in the charge.

(Sd.) B. C. KENNEDY,
Judicial Commissioner of Sind.

3rd November 1921.

APPENDICES.

Appendix 'A'—Exhibits in the Court of Sessions with corresponding Exhibit Nos. in the Court of Committal.

Appendix 'B'—Exhibits in the case of Crown v/s Sha wakat Ali under Sec. 124-A and 153-A., I. P. C. in the Court of the City Magistrate, Karachi.

Appendix 'C'—Exhibits in the Case of Crown v/s Mahomed abulhasan Section 124-A of I. P. C. in the Court of the City Magistrate, Karachi.

Appendix 'D'—Mr. Mohmed Ali's criticism on Judge Kennedy's summing up to the Jury.

Appendix 'E'—Press Opinions.

APPENDIX 'A'

L. C. Ex. No. 4.

S. C. Ex. No. 6.

Unanimous Fatwa passed by Jamaitulmarkaza Ulemai Hind, on which are affixed the signatures of 425 educational and religious Ulema—Printed second time by Nizam Sahib Jamait under the supervision of Khadim-ul-ulema Abdul Hamid, with a much more increased number of signatures according to the decision of Arakin Jamiut-ul-ulemai Hind, in the month of Jamadiulakhri 1339 Hijri, at Hamidia Press Delhi.

Unanimous Fatwa which was produced before the respectable Ulemas in a grand meeting of the Jamait-Ulema-i-Hind held in Delhi, on which they affixed their signatures. It was afterwards sent to other places, and the signatures of other Ulemas were taken on it. According to the decision of the members of the Jamait-Ul-Ulema-i-Hind the Secretary of the Jamait got it printed in the Hamidia Press Delhi, under the supervision of Munshi Abdul Hamid.

In the name of the Allah the beneficial and merciful.

What do the Ulema of the faith and the Muftis of the Shariat say in the following matters:—

1. What is the significance of the word "Mowalat" (friendship or love) and what kind of 'Mowalat' is religiously unlawful with the enemies of the faith of Islam, and what kind of 'Mowalat' about those who inspite of their acquaintance with the question still persist in keeping 'Mowalat' with them (enemies of Islam)?

2. Does the membership of the Councils of the Indian Government, the profession of pleaderships and Mukhtari, receiving education, to receive education by taking Government grants in aid of education and acceptance of Honorary Magistrateships and Government titles come in the category of Mowalat.?

3. Under the circumstances are the Government services, military and otherwise which serve to strengthen the institution of the Government, unlawful for the Mussalmans?

TRIAL OF ALI BROTHERS & OTHERS.

4. Is the use of English goods, which serves to give strength to the English nation, forbidden under the circumstances.

5. Is it religiously permissible to make political alliance with, and to ask for help of such of the non-Muslims as are not hostile to the Mussalmans?

6. Is it religiously permissible to accept and follow good counsels of non-Muslims in any religious matter, which is apparently taken for subordination and following to a non-Muslim?

The answer of all these questions should be numberwise, clear, concise, but argumentative. Please clearly explain. You will be rewarded by God for it.

Answers.

1. In Arabic idiom and religious technicality the word 'Mowalat' is used to mean 'love' (mutual help). All commentaries of the Holy Koran are distinct and clear on this point, and 'Mowalat' with the enemies of Islam is unlawful according to both of the interpretations. God had forbidden 'Mowalat' with the enemies of Islam whether it is open or hidden with wages or without wages. God says (Arabic).....

"Allah only forbid you respecting those who made war upon you on account of your religion and drew you forth from your homes and backed up others in your expulsion that you make friends with them and whoever makes friends with them, these are the unjust".

If there is any Muslim, who inspite of being acquainted with these matters still keeps 'Mowalat' (with them, then he will be considered 'unjust' in the words of the Holy Koran. God says in the chapter entitled "the Maida" (the food).

.....Arabic.....

"O you who believe, do not make friends with the jews and the Christians; they are friends of each other; and whoever; and whoever amongst you makes friends with them, then surely he is one of them; surely Allah does not guide the unjust people".

APPENDIX 'A'

The late Shah Abdul Aziz of Delhi has written a long and detailed fatwa on the 'Mowalat' of the infidels. The following are some of its extracts:—

Persian.

.....
.....

"What the theologians state in connection with the 'Mowalat' of the infidels requires a detailed explanation—Sharah Ainulilm and Ihyaul-Uloom may be consulted on this point. The substance of which is that if "Mowalat" (friendship) is observed with the infidels in religion, then the theologians are unanimous that it is decidedly an infidelity but if on the other hand one willingly observes 'Mowalat' in worldly affairs then it is 'Unlawful'.

Arabic.....

"It is unlawful to gather its causes"

Now as regards 'Mowalat' (meaning mutual help and aid) it is based on an established principle..... Arabic).....
.....co-operation in infidelity and sin if unanimously declared as a sin, for the Holy Koran says "do not co-operate in sin and excesses"—Some times this help (co-operation) is given on wages, and this is what is commonly known as service and some times it is without wages, in which case it would be called help and aid.

The Commandment of God regarding the above two kinds is identical; i. e. if the infidels want to fight against the Mussalmans or to take possession of the Islamic territories, then it is forbidden and unlawful (for the Mussalmans) to enter their service or even to help them in any way and it is rather a capital sin to do so.

But if the infidels have engaged the Mussalmans to collect wealth for them and to manage the affairs of theirs already acquired Kingdoms when they are fighting amongst themselves, it is outwardly allowed and permissible for the Mussalmans as other labours are; and moreover our great men are reported to have accepted wages

TRIAL OF ALI BROTHERS & OTHERS.

from the infidels for their services and labour. But nevertheless if we go deep into the question, it can not but be forbidden and unlawful as well, specially in these days when their services have become the source of religiously declared vices—The least vice is idleness of the Mussalmans and their not refusing to do their (infidels') unjust and evil works—Good counsels for them being their well-wishers, multiplying their number, enhancing their prestige, showing extreme respect, extreme love for them, calling them 'Khudamand' (Lords) 'Sahab' and 'Kible' etc etc (can not but be forbidden).

2—All these things are contained in 'Mowalat' for these things apparently indicate love and also in a sense help the Government—So on the basis of the injunction of 'Tarki Mawalat' (severing friendly connections) it is incumbent on the Mussalmans to keep themselves aloof from all these things—Moreover it is incumbent upon the Muslims to give up all these things and other vices also in spite of the injunction of 'Turki Mowalat'.

The following is a concise details. The reasons for the boycott of Councils are as follows:—

(a) The object of a council whether executive or legislative is the strength and administration of the Government laws which openly comes to helping the Government.

(b) In councils often irreligious laws are made—It is never permissible for Muslims to move, support or to remain silent on them, when as a matter of fact they have power to oppose them—The Prophet has said:—"whoever of you sees any vice, he should obliterate it by his hand; but if he is unable to do so then by his tongue and if again he could not do so then by his heart"—But our Muslim members of Council never mind all these things, as the present laws and the events of the past can well testify.

(c) In Councils there are Englishmen who are tyrants and enemies of Islam and with such a nation it is religiously forbidden to sit on positions of honour—God says "Then do not sit after recollection with the unjust people."

APPENDIX

(d) It is also essential for the members of the Councils to take the oaths of allegiance, faithfulness and good wishes to the Government, but under the circumstances it is forbidden for the Mussalmans to take of their own accord any such oath—That's why the oath of allegiance is religiously forbidden and is a capital sin.

The following are the reasons why the profession of Law is Haram (religiously forbidden).

(a) Those who in this profession, help to maintain one half of this Government, viz, its department of Administration—They bring the Law into practice which is a great help to the Government, the unlawfulness whereof has been proved.

(b) Many civil and criminal rules of law are against the religion of Islam, and it is the special duty of a legal practitioner to see that people do observe and act upon these rules of law—This is wholly a sin.

(c) Every legal practitioner often knowingly works for the oppressor against the oppressed, simply because he has taken up this profession. This is wholly a tyranny and supporting the sin.

(d) They induce and educate people to tell lies purposely in order to bring the case within the sphere of law. This is a hypocritically heinous crime. Often Vakils act and are compelled to depart from the commandments of God because of their profession.

The following are the reasons for the boycott of Government and Government aided Schools and Colleges:—

(a) The object of the education is either service or profession of Law which falls in the category of the forbidden '*Mawalat*'.

(b) Besides this above mentioned vice the present system of education has also other vices. e. g. love for this world, love for wealth, selfishness, disregard for the commandments of religion etc. And also these things are '*Haram*', so it is incumbent for the Mussalmans according to the principal of "the causes of sin are also sin" to keep themselves aloof from such education.

TRIAL OF ALI BROTHERS & OTHERS.

(c) The education of schools and colleges causes the Mussalmans to give up one of their fundamental duties, because, it is practically impossible for the Mussalmans with such education to receive religious education which is essential for every Mussalman.

(d) In Islamic Arabic schools which are under the influence of Government (whether they are wholly of the Government, or aided by or affiliated to it) there is a special vice besides the above vices, that religious education is merely received for worldly objects. This is also 'Haram'. The same is the condition of the searchers of such institutions because it is doubly sinful for them. May God save us from all these.

Different reasons for the acceptance of Government grants and aids being 'Haram'.

(a) This also concerns with 'Mawalat' which is forbidden under the present circumstances.

(b) The real object is lost, and this serves to create the above mentioned vices. Therefore, according to the principle "that the motive of sin are also sins", this taking of the grants is 'Haram'.

(c) Acceptance of grants does not however allow the Mussalmans to observe the necessary extreme hardness with the enemies of Islam. God says "O, Prophet", Fight with the infidels and hypocrites and treat them stringently".

The Prophet's refusal of the presents of some of the infidels was based on this principle as it has been clearly shown in the 'Fatwa-i-Alamgiriya'.

The following are the reasons why Honorary Magistrateships and Honorary Posts are 'Haram'.

(a) The holders of these posts and titles help the Government of India which is 'Haram' according to the faith of Islam.

(b) Such men have to decide cases according to the laws (which are against Islam) of the Government of India. This is 'Haram'.

APPENDIX 'A'

God says, (Arabic) "Those who decide cases against the faith of Islam are tyrants."

(c) Because of these posts and titles, one has often to be hypocritical in religion.

The reason for the Government titles being '*Haram*' for the Musalmans.

(a) Titles are the causes and sources of the forbidden '*Mawalat*' so their keeping falls under the commandments respecting '*Mawalat*'.

(b) Title holders have to keep friendly relations with the authorities (the enemies of Islam), and have necessarily to respect and revere them, which is '*Haram*'.

(c) Title holders ask from the enemies of the Faith honour and wealth. This is religiously sinful. God says (Arabic). "Should people seek honour at the hands of the infidels, verily, all honours are in my hands."

(d) Title holders however much they may be praying and fasting they can not treat the enemies of Islam with the required religious hardness as has been demonstrated above.

3. All Government services which assist Government are '*Haram*'; particularly the Police and the Army service is the worst sin, because they have to fire on their brethern. God enjoins. "He who intentionally, knowingly kills a Mussalman will be perpetually tortured in Hell".

The Prophet, praise be to him has said:—(Arabic Hadis).

(Arabic Hadis).....

'One who takes up his arms against us, would not be of us' We have in "Mabsoot" of Imam Surukhay vil. 10th. that if any infidel King has attacked any other infidel King then under the circumstances it is not permissible for the Muslim subjects of the King to fight on behalf of their infidel King; because that would

TRIAL OF ALI BROTHERS & OTHERS

help to strengthen the dignity and enhance the prestige of industry and ploytheism which is haram.

4. It is undoubtedly forbidden and unlawful to sell or buy goods from the enemies of Islam (English nation.)

The theologians discussing the unlawfulness of the sale of such armaments to the belligerent nations, as might serve to strengthen their powers, write that the commandment is not confined to the armaments alone, but it signifies that the sale of all such articles as are calculated to be a source of strength to the enemies, is forbidden and unlawful such as iron etc. etc. So it is clear from the above that boycott of English goods is a religious matter. Because in modern days the strength which the enemies receives from trade is much greater than that simply received by Sale of iron. But it is however permissible to use such of the things as can not be practically avoided or which cannot but be helpful to further other national objects.

Arabic.....

"If two afflictions have to be taken by any one, he should choose the easiest of the two "and necessity even allows the forbidden one.

5. But undoubtedly it is religiously permissible however to hold political alliances and friendly relations with such of the Moslems as are not the belligerent party of the Mussalman. It is lawful to treat them with justice and equality and advisable to behave towards them with goodness and virtue. God says:

Arabic.....

* Allah does not forbid you respecting those who have not made war against you on account of your religion and have not driven you forth from your homes, that you show them kindness and deal with them justly; surely Allah loves the doers of justice."

But nevertheless the Mussalmans should not in their enthusiasm commit any such action as may be religiously forbidden. For other-

APPENDIX A

with such alliances as serve to cause other vices are not permissible. In such matters full regard should however be always given to the theological principle that it is preferable to obliterate the vices as to have regard for the disabilities and advantages; and whenever advantages are confronted with vices then it is always preferable to avoid the vices. It is for this reason that the attention of the religion has been keener towards forbidden and unlawful than towards the commandments of duties. It is religiously permissible to ask the help of such non-Moslems.

This question has been fully dealt with in the books of Theology in Chapter of "Cismat of Gauaim" (Division of the booty). Moreover the Prophet accepted the help of some Jews in crushing other Jews in the battle of Khaibar and also accepted the help of Safwan-i-bn Omyye, an idolator in the battle of Honain. (For references see" Fathul Qadir etc. etc.)

6. It is permissible to accept the good counsels of any non-Muslim and to act accordingly provided they are not against the aims and objects of the faith of Islam and all this is in reality following the commandments of the God and the Prophet. Theologians have written that it is permissible in times of war to act according to the directions of the idolators in attacking the enemies of Islam. The Prophet has said that wisdom is the article of the Mussalmans they should pick it up wherever they may find it. There is no special condition about it. But nevertheless it is haram to follow infidel's wishes. God has said:

Arabic.....

You should not follow their wishes after you have received knowledge, for otherwise you will be the unjust. But this must be borne in mind that leadership of an infidel over the Mussalmans whether wholly or partially is never permissible, for God has said that God has not made the leadership of the infidel over the Mussalmans. For reference consult the commentary of the Holy Koran by Mulla Jiwan and others. God knows the truth.

(Sd.) Abdul Mhasin Mahomed.

Sajjad (May God be with him) Secretary Jamait Ulema Behar.

Translated by

(Sd.) MAHOMED HANIF

TRIAL OF ALL BROTHERS & OTHERS.

EXTRACTS FROM THE

Agreed Fatwa passed by Jamaitulmarkaza Ulemai Hind, on which are affixed the signatures of 425 educational and religious Ulema. Printed second time by Nazim Sahib Jamait under the supervision of Khadimulema Abdul Hamid, with a much more increased number of signatures according to the decision of Arakin Jamiatul-Ulemai Hind, in the month of Jamadiulakhri 1339 Hijri, at Hamidia Press Delhi.

* * * * *

There is no distinction in that, but it is unlawful to follow the wishes of infidels. It should be clearly understood that it is improper to respect a non-muslim instead of a muslim whether wholly or partially. God commandeth "Arabic....."

* * * * *

Correct reply

* * * * *

Correct reply

* * * * *

It is necessary for Mussalmans to obey religious orders, which have been framed by Fazil Mujib.

* * * * *

Correct reply

* * * * *

As I am not habituated to sign on Fatwas and inspite of being unable to do this good thing, I think it necessary to agree with the theory on which are affixed the signatures of Ulema. I must obey this theory.

* * * * *

Correct reply

To avoid the control of infidels is the duty of every Muslim.

Correct reply

All the replies of the President are quite correct, right and according to 'Sharaiat' May God give power to all Muslim brothers.

Co-operation according to the mandates of Quran is unlawful. Further details in this connection can be seen in the book of Hafiz Ibn Tahmir's, pamphlet entitled "Iqtdarul Siratul Mustakim."

In several places God has commanded that non-cooperation should be observed and when in these days the Christian Nations are fighting against Islam and when infidelity and enmity are both concerned, the Mussalmans from the religious point of view should observe non-co-operation and should keep themselves aloof from such movement as would empower them.

Co-operation with the infidels is entirely unlawful. There are passages in Quran in support of that. The Maulvis have always taught this and the Quran also teaches this. All acts of co-operation are unlawful.

Undoubtedly this should be done.

The replies are correct.

The question of non co-operation has been so clear now that it needs no further writing or speech. The critics tried to give their own meanings to the commands of God and the orders of Prophet. Mussalmans in pursuance of their religion should act on non-co-operation as we can not do any thing to the enemies of Islam beyond observing

TRIAL OF ALL BROTHERS & OTHERS.

only non-co-operation with them. It is also clear that by making use of the Indian made goods we shall put the enemies to loss and do good to our own country. The Mussalmans should now have recourse to their Islamic spirit, discarding the satanic influence. May God help us.

* * * * *

After the first edition had been published the printed Fatwa had been sent to the Ulema and whatever signatures had been obtained were added to the second edition. They are as follows:—It is against the religion and it is prohibited to co-operate and associate with the infidels. It is a sin to keep friendship with them. One has to respect one's friends religion. It is therefore necessary that one should be careful to make a friend. Unless religious necessity renders it lawful, you should not eat with them. Moulvi Ahmed Raza Khan himself writes in his Fatwa entitled Fatwa Radiya as follows:—In this connection the orders against the Christians are much stricter than those against the Hindus because for several reasons both are alike:—The Christians are governing nations here, the hatred against them is in lesser degree, the possibility of changing religion or weakening of faith is greater as compared to having connections with the the Hindus. The legal practice & etc and all other such acts in which one has to commit lies and do such other acts which are opposed to religion and where by the infidels are respected and honoured are unlawful. Those schools and colleges in which the morals of Mussalman students are evilly influenced, or they are required to do acts opposed to religious law, or in which the infidels are unduly respected or the curriculums of which are opposed to religious teaching, it is unlawful to take education or to teach in such shools. It had been decided by the Ulema that no Mussalman should help the Aligarh College, it has been considered right to close it down. Services which are the causes of sin or in which one has deliberately to act contrary to one's religion are prohibited acts. It is laid down in the Fatwa Radwiya that it is not lawful for a Mussalman to disgrace himself. The service of an infidel is prohibited. Non Muslims who are not at religious war with

APPENDIX 'A'

the Mussalmans should not be turned out of the country. It is right to keep such connections with them as are not opposed to religion.

Sd. * * * * *

(1) At this critical moment it is the first and foremost religious duty of the Indian Mussalmans to observe non-co-operation with the Christians.

(2) Although the order as to the absolute non-co-operation is applicable, but during these troubled times it is lawful to have all connection with the Hindus, but connections with the warring Christians are prohibited.

(3) All sections of the principles of non-co-operation are religiously important, specially the question of education and legal practice. According to the orders of the prophet, the taking of prestige and mixing in their society are prohibited.

Sd. * * * * *

I have got this pamphlet read out to me from beginning to the end by some friend of mine and find the replies are well reasoned. May God bless questioner and help all the Mussalmans to act upon it.

Sd. * * * * *

The gentleman who has first replied the questions is very reasonable and satisfactory. I have added some details and commentaries against some of these replies in my article which was read out in the Sessions of the Jamaitululemai Hind, Delhi.

Sd. * * * * *

I have carefully gone through this unanimous Fatwa and find the replies absolutely correct;

Non-co-operation is a religious duty of every Mussalman for no other purpose.

According to the principles of Islam it is necessary to observe non-co-operation with the infidels and with the prevaricators. More

TRIAL OF ALI BROTHERS & OTHERS.

specially it is lawful to non-co-operate with the Non Muslims in matters in which the latter are to be benefitted. So that no help is to be given against Islam.

Sd.....

Indeed this is entirely correct that (1) All matters in which the warring infidels are helped and which strengthen the enemies of Islam or which are the causes of their exaltation are included among the prohibited acts, whether they are matters or some other connections. The meaning of Mawalat (co-operation) according to Shariat (Religious law) are friendship, mutual help and love as given in, Tafsir, Kabir and other books of commentaries.

2. All these facts are included in co-operation, because some of these generally help in the confirmation of the Government of India, and become a cause of its glory; some help in the confirmation of certain propaganda of the Government which in itself is the help in the confirmation of the Government of India; some become the cause of friendship and love and show faith towards the Government and some show both the things. The learned Mujib's replies clear this fully. Those people who know about the administration of Government of India, know this fact well.

3. These matters are unlawful as they are included in co-operation and co-operation with the foes is unlawful.

4. These matters are prohibited because being the cause of empowering the foes are included in co-operation.

5. It is proper. There is no proper religious reason for its being unlawful as the Prophet himself formed alliance with infidels and accepted their help in some religious matters. The orthodox religious philosophers have declared the help of infidels to be proper.

6. It is proper to accept and act upon some good counsel of non-muslims for the achievement of some religious purpose when it is

APPENDIX "A"

not against religious laws, though it may seem that it is to follow non-muslims. But if to follow non-muslims and to act according to their counsel is religiously lawful, there is no harm in acting according to that counsel. This is another thing, if it is harmful to make a non-muslim imitate muslim.

"Mowalat" (co-operation) means love in Arabic language, but love, friendship, sympathy and help is also included in this, as is written in Tafsir Kashed. "Arabic.....". This Tafsir has declared all kinds of co-operation in which is also included help and friendship, with Jews and enemies, to be unlawful. (2) To accept grants and aids for schools is also included in co-operation according to the above Tafsir. (3) To accept titles and Honorary Offices from the Government which is infidel is also included in co-operation and is a symbol of disunion. Quran Sharif says about disunitors. "Arabic.....". The acceptance of Honorary Magistracy is unlawful, because in this, orders are to be passed according to the laws of the Government of India which according to "Arabic....." is unlawful. It is unlawful to accept military and non-military offices of Government (see Fatwa Azizi page 118). Military service is a great sin and the cause of great pains from the God, because in this besides the help of the warring infidels there is fear of killing Muhamadans. "Arabic....." The rest Nos. 4; 5 and 6 are proper as the learned Mujib has written. God may grant power to the Mussalmans and they may not co-operate with the enemies of religion and warring infidels.

The above replies are correct and the Mussalmans should act according to them.

Those who want to avoid present disturbances in their writings are really assisting in the killing of Mussalmans by the enemies of Islam. In the absence of disturbance Government will be prepared to save the life and property of the country and the killing of Mussalmans will begin. To assist the enemies of Islam against Mussalmans

TRIAL OF ALI BROTHERS & OTHERS.

is unlawful and a sin. Therefore to write such things and to publish them is unlawful and a sin.

Undoubtedly there is written much about the non-co-operation with the infidels in the Quran and Hadis. It is necessary for Mussalmans to do so. Those acts which lead towards co-operation are also unlawful. It is necessary to boycott them also.

There is no doubt that co-operation with infidels is such a contemptible act that many passages in Hadis are written against this thing. It is good thing and necessary to act and non-co-operate with the infidels. Ulema and helpers of Islam have said quite right about this. Especially it is one of the religious necessities to consider this thing necessary at this time.

As far as possible non-co-operation with the English people should be observed. The others also should be included and requested to induce Mussalmans to do so.

The above replies are quite correct and there is no need for any alteration. The men of cheatful temper even find something wrong in the interpretation of the orders of the Prophet.

Non-co-operation with the enemies of Islam has been proved by Bajib. To act on this proved theory is the duty of every Mussalman.

Co-operation with the infidels and enemies of Islam is unlawful. All the means and methods of co-operation should be boycotted. "Arabic....." It is infidelity to make any infidel a head or leader, and to respect him as an infidel. "Arabic.....".

It has been a practice with the holders of the office of the custodian of the Phulwari Sharif that they do not sign Fatwas. Ever since I have assumed the office I have also not signed any Fatwa. I would however make it clear that it is unlawful for the Mussalmans to keep friendship with and help the non-muslims.

Arabic.....

Arabic.....

It is indeed religiously unlawful to aid and assist the infidels or to do such acts whereby they are aided and assisted.

It is unlawful to co-operate with the warring infidels or to have connection with them such as joining their armies, advising them to their benefit, accepting such services under them whereby they are helped, accepting from them money and titles in friendly connection with them. Enmity with Islam is absolutely unlawful.

Friendship with the enemies of Islam is quite unlawful. Therefore boycott of these things by which the enemies of Islam are empowered is proper for every honest man. "Arabic....."

I, under present circumstances keeping in view the command of God. "Arabic.....", heartily agree with our Ulema.

The unlawfulness of co-operation with infidels is proved by Awla Arha, and its explanation is given in the book Alsir.

I agree to the above subject. I also agree to this writting.

According to Sharahiat religion, sensible thinking, general feeling and necessity of time the unlawfulness of the co-operation with the infidels is as clear as a bright day.

The question of non-co-operation is quite clear. As much hatred against the infidels as it can be created, is good. Every Mussalman should make effort in this direction.

Non-Co-operation with the idolators is proved by clear passages of Quran, spirit of Islam. The oppression of idolators requires, that in every thing in which they are to benefit, non-co-operation should be observed.

TRIAL OF ALF BROTHERS & OTHERS.

It is indeed unlawful to co-operate with the infidels. Islam requires that non-co-operation should be observed in every way in which they are to benefit.

It is unlawful to co-operate with the enemies of Islam. It is therefore necessary to observe this as well as other mandates of religion. The progress of Islam lies in this. The traditions of the Prophet and the clear passages of Qoran, are evidence in support of this.

In order to face the enemies of Islam the Mussalmans ought to keep as much material of war ready, as they can, as God Commandeth "Arabic.....". In view of the present circumstances the Mussalmans have no other materials of war than observance of non-co-operation. "Arabic.....".

Replies are correct. With those infidels with whom peace has been made one can co-operate with them on the condition that one is not to suffer religiously or one has not to give up any religious duty, and which does not make them so great as to make the Mussalmans their subjects.

I am very much tired of the Infidels.

Reply is correct.

All replies of this Fatwa are correct.

The above reply is correct according to Shariat.

Theory of non-co-operation is not such that any wise man may doubt it, except a man whose heart is sick with the disease of dis-union.

Translation from Sindhi. It is the duty of every man to non-co-operate with the enemies of religion according to his power.

Non-co-operation with the enemies of Islam is very beneficial and necessary.

An interesting request to Mussalmans :—

APPENDIX 'A'

O! Mussalmans, in these days the possession of poor Islam, the Khalifa of Mussalmans, the safety of good name of Khalifa of Mussalmans are the important duties of yours. If God and the command of the Holy Prophet are clear to you more than your life, and wealth, you believe that on the Fearful Doomsday you have to appear before the Almighty, if you are desirous of the help of the Holy Prophet you should at once get up. The Fatwa of the Jamiat-ul-Ulema Hind is before you, act yourself up to it, and make other Mussalmans follow it. Voice from the heaven calls you to duty. "Happy are those who bow before the commands of God."

True Translation,

(Sd.) RAM KRISHNAF,

Translator. 22-10-21.

L. C. Ex. No. 12,

S. C. Ex. No. 16.

Urdu introductory speech of Mr. Mahomed Ali informing the meeting about the formation of the subjects committee.

L. C. Ex No 46.

S. C. Ex. No. 17.

Extract from the Presidential Address of Mr. Mahomedali at the All India Khilafat Conference Karachi on the 8th of July 21. "Now, a subject Committee will be formed which will draft some resolutions that will be presented before you to-morrow and the day after. It consists of all those members of the Khilafat Conference who are members of the Central Committee and besides every Khilafat Committee of each Province will appoint five members. Each of the Delhi, Ajmeer, Marwar, Behar, Orissa, Bengal, Assam, Central Provinces, Berar, Burma, Bombay, Sind, Madras, Bangalore and Andhara will select 5 members of its own but 10 members in the case of Bombay and Sind Presidency.

True Translation

Sd. MAHOMED SHAH,

D. S. P.

TRIAL OF ALI BROTHERS & OTHERS.

L. C. Ex. No. 13.

S. C. Ex. No. 18.

Urdu speech of Mr. Mahomedali introducing Resolution No. 6

L. C. Ex No 47.

S. C. Ex No 19.

Mr. Mohomed Ali made the following remarks while moving the sixth Resolution at the All India Khilafat Conference, Karachi:—

Now at an extremely critical time a very important resolution is being moved which you should consider to be the essence of the Conference. The Resolution is as follows:—

Resolution No 6.

The President read out the following Resolution:—

“This meeting of the All India Khilafat Conference heartily congratulates Ghazi Mustafa Kamal Pasha and the Angora Government upon the magnificent victories and the success of their most deserving (or self satisfying) endeavours in upholding the laws of Islam; and this meeting prays to Almighty God that they may soon succeed in expelling the whole of the armies of the foreign Governments from every nook and corner of the Turkish Empire. In addition, this meeting clearly proclaims that it is in every way religiously unlawful for a Mussalman at the present moment to continue in the British Army, or to enter the army, or to induce others to join the army. And it is the duty of all the Mussalmans in general and the Ulema in particular to see that religious commandments are brought home to every Mussalman in the army. Further more this meeting also announces that if the British Government were to take any Military measure against the Angora Government directly or indirectly, openly or secretly, then the Mussalmans of India will be compelled to commence breaking laws i. e. resort to civil disobedience with the concurrence of the congress and to proclaim in the forthcoming annual sessions of the congress to be held at Ahmedabad the complete independence of India and the establishment of a republic Government in India.”

APPENDIX 'A'

This resolution will be moved by Maulana Hussain Ahmed who is a true devotee of the late Shaik-ul-Hind Maulana Mahomed-al-Hassan and who was interned at Malta and Egypt.

L. C. Ex. No. 14.

S. C. Ex. No. 20.

Urdu notes of Huussain Ahmed's speech.

L. C. Ex. No. 48.

S. C. Ex. No. 21.

(When Maulana Hussain Ahmed came on the dais, the audience raised a cry of Allah-o-Akbar.)

The following is the speech made by Maulana Hussain Ahmed a resident of Deoband, in moving the sixth Resolution at the All India Khilafat Conference, Karachi:—(Reported by Inspector Lakhte Hussain).

Gentlemen, I am ordered to move this resolution. I wish to put before you in connection therewith some commandments of the Quran and Hadis (i. e. sayings of the Prophet.) But before placing them before you I consider it important to make clear what sort of relation should according to the Quran, exist among the Mussalman of the world. The Quran says (Arabic quotation not given) that among the Mussalman, wherever they may be, of whatever colour or race they may be, whether belonging to the East or to the West, whether they may be black or white, whatever language they may (happen to) speak, there is no such difference on account of which Mussalman may remain indifferent to (the fortunes of) the other or may leave him in a condition which exposes him or his honour or property to any danger (lit. injury). In short, this verse clearly states that Mahomedans should stand with one another on the same (friendly) terms as exist between two brothers. What is the object of this verse which contains an injunction? Does it simply state a fact or refer to a commandment. Those persons who have devoted even some attention to the study of the Arabic language and are familiar with

TRIAL OF ALI BROTHERS & OTHERS.

the customs of Arabia, must be knowing full well that in Arabia a particular distinction or mutual relation existed among the brothers which showed their unique characteristic such as did not exist among other relations. Hence a poet says (the speaker then read an Arabic couplet the purport of which is that one should stick to his brother firmly because a person who has no brother is like a person who goes to the battle-field without weapons. It means that the Quran has established a brotherhood among the Mussalmans with a view to help, wish them well and look after one another, and create such affection as the father or the mother cherishes towards his or her children.) The Quran expresses this very thing particularly in other words (Arabic quotation omitted). "The Mussalmans, men and women are helpers of one another". Accordingly it is said about this subject (and the prophet clearly refers to this subject in many of his sayings, hadis;—Arabic quotation omitted)" The Mussalmans whatever part of the earth they may be inhabiting, are all of them like one body and like one organism (lit. limbs). When the eye pains, the rest of the body pains. If the foot pains the whole body suffers, sleep disappears. The same condition should prevail among the Mussalmans themselves. "Further, he says (Arabic quotation not given) "A Mussalman is a brother unto another Mussalman. Do not disgrace him". In short, Islam has established such a (firm) relation and connection among the Mussalmans on account of which each Muslim has (some) rights over the other. In short, Islam, the Quran and the *Hadis* have established such an alliance among the Muslims on account of which it has become incumbent on all the Mussalmans to fulfil those mutual rights with great force. When the Quran and the *Hadis* have explained this thing with great emphasis, it is now necessary for us to devote our attention to what the Mussalmans of the world should do today. At a time when Islam in other lands is involved (in troubles), when the Khilafat is entangled and when the Ulema of Islam and the religion of Islam are subjected to such a plight every now and then, (the question is as to) what commandments should be issued regarding that. We should refer to the Quran for it as well. The Quran says (Arabic quotation omitted). 'O Muslims, those who fight against you, those people who invade your country in overwhelming

numbers; those people who want to deprive you of your liberty; those people who wish to destroy your prestige, your country, your wealth, your honour; those people who want to efface your religion from the face of the earth; you should oppose them and you should fight with them. "This is the commandment given under the Mahomedan law and it has been made compulsory that if the opponents of Islam were to invade the cities of Islam, it is incumbent on all the Mussalmans to resist them. In this (Commandment) no distinction is made of any particular nation. Hence the theologians of Islam direct that if any attack is made against any of the Muslim cities, it becomes necessary for all the Mussalmans, (to resist the invaders). It first becomes incumbent on the inhabitants of that city to resist the infidels and to repulse them. And if they are not powerful or show negligence (lit. laziness), then it becomes incumbent on the inhabitants of the neighbouring cities to carry out this commandment. And if they also show any negligence then it becomes incumbent on the inhabitants of the other neighbouring cities. Thus, gradually, and by degrees, it will become incumbent on all the Muslims of the world to resist the infidels by means of their life, property, and money. Hence it is necessary that when the cities of Islam, the Ottoman Dominions which were under the King of Islam, are attacked, it is incumbent on all the Mussalmans to whatever place they may belong, whether India, China or Bokhara, that they should help them and drive the infidels out of their cities. But this is not enough, as in another place it occurs, (Arabic quotation not given):—"(If) the opponents of Islam oppose you in a body, fight against you, wish to destroy your country, your honour and your religion, then it is similar incumbent on you all to combine, to oppose and fight with them". Please ponder over the meaning underlying these 2 verses. The sum total of all these verses particularly is that, when the allied Countries of European nations together are desirous of destroying the Islamic Kingdom, and while committing various kinds of tyrannies, are devising such plans (lit. forms of actions) as may prove destructive of not only Islamic kingdom but the religion of Islam, in such circumstances you can yourselves know what both these verses mean and religiously it is incumbent on every person and every Muslim to oppose them

TRIAL OF ALI BROTHERS & OTHERS.

with united strength. When the duty is (lit. was) to oppose them and in such circumstances the Mussalmans show laziness or lethargy then you can imagine what great sinners they will be, because it is unlawful (haram) to avoid (lit not to fulfill) a religious duty. Such (a laziness) is considered to be one of the great sins. In such a case when it is a great sin to show laziness or lethargy, how would it be lawful now to help the enemies of Islam in any way? Hence it is particularly forbidden in the Quran in various verses. God says (Arabic quotation not given):—"Help each other in doing good and pious deeds but do not help each other in committing sins, oppression and aggression. Those people who are helping the Allies, (it matters not) whether silently or by means of money or army or life, in what ever way they will help them they will come under this category, and what is that category? It is:—"Do not help each other in committing sins and oppressions". When this thing is known that to-day Europeans desire and the Allies also want that no Muslim power should continue on the face of the earth; when the largest Muslim Empire the (lit, this) Ottomon Empire, the King of which was called Caliph of Islam, who defended Islam in every way, when efforts are being made today to destroy this Empire then in such circumstances a person who helps the Allies in any way, whether he makes others to join the army or himself joins the army or helps by his actions, speech or writing then he is in fact the enemy of Islam and the destroyer of the foundations (lit, root) of Islam. (The speaker read an Arabic verse). The Holy Prophet says with regard to such circumstances (Arabic quotation not given) Who ever fights against (us) the Muslims, is not one of us", Those people who thus help the Allies and the enemies of Islam by joining the Army., they should consider whether they would continue to be Muslims or not. In this connection I do not wish to describe in details the facts that have taken place. I wish to place before you only one incident, which was related to me on good authority by an Australian Mussalman. He heard it from an Australian Christian who was himself present at the Dardanelles. As this incident has been related by a Christian, an enemy of Islam who himself used to repeat it, it would certainly teach some lesson worthy of credit. And this will help people to realise whether or not we will continue to be

APPENDIX 'A'

Muslims by helping the enemies of Islam today. The above Australian Muslim says he was present in Australia when the Australian forces came back after the Armistice and assembled in a coffee-shop and (soldiers) began to talk with one another. They talked about an incident, which will, by the way, show what part the Indians played in the war and what a good name or a bad name (lit, black-facedness) they earned. The Australian Christian related that he was in the trenches and along with him there were also a few Indian soldiers. Out of them two were Muhammadans. And he used to see that they quarrelled with each other (over some point) and discussed it for two or three days. He did not understand them but his guess was that one of them wanted to throw away his weapons and go over to the side of the Turks because of his being a Mussalman. His comrade desired that such a thing should not be done and dissuaded him. This quarrel continued for a day or two. In the end one of them threw away his weapons and ran towards the Turkish trenches. He had (hardly) gone a few paces when his other companion made noise and informed the other soldiers that his companion was going over to the side of the Turks and that they ought to shoot him. Accordingly he was shot down. He had reached the middle point when he was shot dead. Now listen about this incident. That Australian said that no one could go to the middle point where he was (lying) because if any one of his side went there he would have been shot by the Turks and if any one of the Turkish side went to that point he would have been shot by men of his side. It was very hot (then) so much so that if any corpse remained there (exposed) for some hours, the body turned black and gave out a very bad smell. But what happened was that at night a candle was seen burning near it (the corpse). The people of his side tried to see by means of light whether any man had gone to the corpse with a lamp, but none was to be seen. It should be remembered that in the battlefield light is thrown in a way that nothing can be hidden from being seen. Usually, in war, during the night time this light is lighted at all hours. It is said that the corpse remained there lying for two or three days and every night it was seen that a candle remained burning near by. This is not a new event. Those who have read Bhukhari Sharif (i.e. collection of the sayings of the Prophet,

TRIAL OF ALI BROTHERS & OTHERS

according to the Imam Bukhari) know that exactly the same thing happened in connection with some of the (Prophet's) companions who were martyred; and near their corpses light remained burning for some time. It is said that after two or three days permission was given to carry away the dead and when his corpse was taken away (it was noticed that) no change had taken place in the complexion nor was any bad smell emitting from the body, as if he had died only a short time back. The narrator says that after a few hours the man who had caused his companion to be shot was also shot in his forehead with the result that his jaw-bone came out in such a way that it looked as if it was a hog's face and the complexion became quite dark. As for the person who had shot (the narrator) says that he also was shot in his forehead with the result that the jaw-bone came out in such a way that his face also became prolonged and looked as if it was a hog's face and the complexion immediately became quite black. This is not the statement of any Muhammadan. This is what a Christian had stated. He says that these are the facts that prove the truth of our religion. I quote only one instance that occurred at the Dardanelles. I have heard that similar cases have happened in (lit with) armies in Mesopotamia, Basra and the Dardanelles. But I wish to remind you by placing before you only one incident that if you are (really) going to help these Christians, these infidels, these enemies of God and the Prophet, then you should get your names written down in the register in which the names of the enemies are taken down in the office of the enemies i. e. the office of the Ghulam Sabha. Certainly about those people who are aiding the enemies i. e. those who (are working) in the slave Associations, whether you give subscriptions to them or whether you cause others to join the army, whether the help be small or big, the Prophet has said (Arabic quotation omitted) as follows" Whoever increased the number of those people i. e. he who sat in their company for the sake of amusement, even though he was neither (actually) one of them, nor did he wish to help them, he would also be one of them." When you get your name entered (lit added) in the register of the enemies of God and the Prophet, you (indirectly) increase their number. When you caused any one to join the army or when you yourself entered it, although there was faith in your

heart and you recited the formula, "There is no God but one God and Mahomed is His Prophet," you should think what your condition will be simply for this very reason that you thus helped (lit: strengthened) the enemies of Islam. The Quran says (Arabic quotation not given) "Whoever intentionally kills a Mussalman his reward is hell, where he will remain for ever. And God's wrath will be on him and God's curse will fall upon him and God has prepared a huge torture for him." In such circumstances is it lawful for any Mussalman to get himself enlisted in the army which is openly ordered to fight against the Mussalmans? Can you after you are enlisted say this much (especially) when they send you to fight against any Muslim people that you would not go there? Very many soldiers said so in Egypt and Mesopotamia and refused to go. They were shot. General Ashan Pasha himself told me (about it) at Malta. When Hazarat Maulana Shiekh-ul-Hind went to see him he expressed his regret and sorrow (lit: signs of pain) about the inhabitants of India. He said—"We have a bitter complaint against the people of India. We never in any way injured either the Hindus or the Mussalmans of India. We never snatched their country from them. We never deprived them of their wealth, respect and honour. But on the contrary we were bound up with them by ties of heart and religion. We and the people of India belong to one religion one race and one continent. We had good many reasons for mutual unity as we were striving to rid the East of all the Western evils and our real object thereby was to free the Mussalmans, we had hoped that the latter would think it their duty to help us. But they did not even remain neutral (lit. quiet) leaving aside their help. On the other hand they brought their armies against us. "He says that the Turks (lit. we) enquired from those Mussalmans who had fallen prisoners into their hands as to why they fought (lit. raised their guns) against them especially when both of them professed the same religion (lit when they recited the same holy formula, "There is no God but one God and Mahomed is His Prophet) they replied "Had we not raised our guns against you, our throats would have been cut." What is the reason? If they take the Mussalmans (to the battle field) after enlisting them in the army and the Mussalmans say that they will not fight against their own brethren then many persons are shot down and many persons were (actually) shot down. Gentlemen, I wish to ask whether you hope to die with your

TRIAL OF ALI-BROTHERS & OTHERS.

faith (in your heart) when you help the enemies of Islam in any way. Do you believe that on the Day of Judgment you will attain your salvation (lit. succeed) through the intercession of the Prophet of God? Do you hope to attain success of any kind to-morrow in the presence of Holy God? I wish to invite your attention to a particular matter after cutting this topic short, and I shall then finish my speech. I do not wish to lengthen my speech. It is this that from both the verses it is evident that—the speaker then recited an Arabic quotation—just as the infidels are fighting against you in a body with all the united strength and combined force, in the same way it is incumbent on you, O Muslims! whether you be in China, India, Arabia, Mesopotamia or Turkey that you should (all get together and) oppose them in a united body. When the condition be such that the Christians of America, England, France, Italy and other places are attacking Islam in a body, whatever has happened in this war you have already heard it, and in that case what will be the duty of the Mussalmans of India and those of other places? That duty will be as the Quran is loudly saying to day to get together to oppose them and to fight against them and that every effort should be made to make Islam successful. If the Mussalmans remain negligent they have surely earned an evil (lit. vengeance) for themselves which will in no way be a means of triumph for them on the Day of Judgement. It is therefore very necessary to oppose completely. But do not think that every person will be made to undergo troubles more than he can bear. (The speaker here read an Arabic quotation). It will be necessary that every person should oppose according to his capacities. Just as it is essential for the Turks to fight according to their strength, in the same way it is necessary for the people of India to oppose according to their own strength. Hence the preliminary course has been adopted so that an opposition be carried on with peace and decency in India within the limits of the law, and plans should be thought out for it. Accordingly, whatever efforts have been made up till now they were directed to this (purpose) that the fight should be fought with peacefulness and decency by remaining within the bounds of law, and some schemes were planned for it which you must have heard of at various meetings. But to day we are facing this situation (lit. this situation has presented itself) that it is feared and from various proclamations of England it is heard that (it is desirous of declaring war) on the Angora Government which is the

only surviving Muslim State. This state has some power and it is being attacked by Greece long time past, and the Greek brutalities on it have been such that even a nation of barbarians will not deem it lawful to perpetrate: In such a circumstance Great Britain and its Allies are not raising any voice of protest against them, but moreover, it is feared today that it wants to declare war against the Angora Government. Then, in such a circumstance will it be the duty of the Mussalmans to continue to behave in the way they have been behaving heretofore? Never. According to the commandments of the Quran, it was necessary for the Mussalmans to fight completely but as there is no power in them, it would be necessary at this stage to do as mentioned above. But all this should be done with peace and decency. Peace should not be broken but the law should not be obeyed in the same manner as it has been obeyed uptill now. Resistance should be offered in accordance with the rules of 'civil disobedience' and this war will be conducted with peace and decency with this excess that the limits of the law should be transgressed. I therefore move this Resolution in accordance with the verses and traditions (Hidis) which exist in this connection, and I say that it is incumbent on the Mussalmans to prevent all armies and all people from helping the Allies in any way, and if British Armies were to attack Angora Government the Mussalmans should oppose (British Government) with civil disobedience, with peace and decency and they should spend as much strength as they possibly can. Now therefore I close my speech.

True Translation. Sd. Mahmmud Shah,
D. S. P. Thar and Parker.

L. C. Exhibit No. 15.

S. C. Ex. No. 22

Urdu Speech reported by Inspector Lakht Hussain, C. I. D. United Provinces of Dr : Kitchlew's on the 6th Resolution, 9th July 1921.

L. C. No. 49

S. C. Ex. No. 28.

Dr. Saifuddin Kitchlew of Amritsar supported Resolution No. 6 in the following speech on the 9th July 1921 at the All India Khilafat Conference, Karachi (Reported by Inspector Lakhti

TRIAL OF ALI BROTHERS & OTHERS.

Hussain) Brothers:—My honoured brother the President has told you that the resolution which is being moved before you is very important. You should ponder over it coolly and should give your opinion after mature consideration lest after leaving the pandal you may (happen to) see an English Officer or a police officer and be frightened to such a degree as to completely forget this resolution and determination, which you may possess in this hall before going out. This resolution was perhaps first moved in the same terms at Gokak, a place in the Karnatak, where my honoured brother the President, and I had the proud privilege to second it. Today again the same resolution is being moved and placed before the Mussalmans of the world from the pandal of the All India Khilafat Conference. In order to show that the Mussalmans of India and along with them their friends, their allies and their supporters, namely the 22 crores of the Hindus, are prepared for this thing that if the British Government, if Mr. Lloyd George or his British colleagues (lit. Ministers of England holding the same views) will ever think in their heart of hearts that they can destroy the Turkish Empire and that they can destroy the Angora Government, then in the month of December these seven crores of Mussalmans and with them the 22 crores of Hindus will, before their National Congress, before the whole world, proclaim to this effect: "We refuse to accept such King and such Government. We will raise the banner of our Republic" (Cries of Allah-o-Akbar) My brother has truly said that this resolution is not an ordinary resolution. It requires courage in order to act upon it, and that too cool courage. I would request you to give your opinion after mature consideration. Since the Khilafat movement has begun we have, as you all know, (and you yourselves have been taking part in it by all possible means) tried to inform the Government of England. We have informed them by means of deputation, by means of papers, by means of resolutions, by means of lectures, by means of sermons, by all the means possible in our power;—by all these means we have tried to point out this to them. Brothers this is a religious matter of the Mussalmans. Mussalmans are outwardly lifeless. Mussalmans have no kingdom (lit. Hukumat). That has already gone. They do not possess much wealth. They do not possess power and strength and means. But brothers if anything can rouse this fallen nation, then there is one thing to do. At the time of Karbala i. e. the name of the battle-field in Mesopotamia where Hussain the grandson of the Prophet

was assassinated by Yazid's soldiers) literally the word means trouble and misfortune) befalls this nation. The time of trouble becomes the time of suffering and when it gets religious colouring then a new spirit is created in this lifeless and impotent nation which not only rouses but it gets prepared to rouse the entire world. We tried to make them understand, we flattered them, we folded our hands (in humility); But brothers, Englishmen could not be brought round. Lloyd George Sahib was thinking of something else (lit. some other scheme). He was dreaming of a crusade. He was thinking of acting upon the policy of Gladstone. He was issuing this challenge on the strength of his air-ships, guns, rifles, bomb-shells and with great satisfaction said to the entire Muslim world, and not only to Islam but to the Eastern civilization, "O, Lifeless men of the Eastern civilisation if you possess any strength then you should come forward; we are openly ready to fight with you But you are unarmed and we know that you can not fight with us." This was his pride. But Mr. Lloyd George and those who think with him all forget the time when they were living a barbarous and semi-civilized life in Europe and when a voice was raised from this the very unarmed East to teach them civilisation and religion which laid the foundation stone of their present condition. If they are proud of their physical powers, their airships and all those implements of destruction then we shall teach them a new lesson today, O (people), I am again proclaiming in order to repeat the same old thing to remind the same old lesson, viz., that the Mussalmans of India, the Mussalmans of the entire world, the Hindu and Muslims of India and the Sikhs have realised what they are. They have regained their spiritualism, their old civilisation and their God. Today in this pandal they are again coming into the world to teach you the same lesson. Brothers they did not pay any attention to our petition. We on each occasion repeated (the same thing) saying Brothers do not worry us (for) we are ourselves in anxiety (confusion), we are ourselves ashamed, we are ourselves sinners, we are drowned in the remembrance of our own sins. When we go into the presence of Allah, when we repeat the name of Mahomed, then at that time I am saying the truth. The Mussalmans think in their heart of hearts that they are cheats, treacherous, faithless and destroyers of their civilisation by their own hands; we ourselves are the destroyers of these holy places, the Island of Arabia and the

'RIAL OF ALI BROTHERS & OTHERS.'

Caliph of the Mussalmans. O! we ~~and~~ ~~men~~ are ourselves lamenting over our condition. Do not worry us. In spite of it they pay no heed to our requests (lit. they want to have their own say). But today I think that at least the Mahomedans have realised it (well) that if there can be any atonement of their past sins and if they want to avoid the consequences then they should (teach this lesson) to those tyrants whom they helped to maintain their (the English) rule over India (Lit. to maintain the Indian rule) by giving their money and by sending their brethren and by means of swords of those Indians who were deceived to unsheath on their (the English) behalf. Today we have known them (the English) and have understood them well and we will not be deceived by them (the English) again and that whether they (the English) send Lord Reading or any other Lord they (Indians) will not be deceived by their words (lit we will not be carried away by his words). We want to make a clear declaration of war before the who'e world saying that if by December you do not accept our ultimatum then we shall ask you boldly (lit. by coming into the battlefield, we shall tell you) to go to some distant land (lit to cross the seven seas) with all your bag and baggage. (Cries of Allah Akbar). I think it is the most important part of it (ie of the resolution). All the rest is mere talk. Much is said against joining the army and it is said that service is not lawful. It is not unlawful from today but for a long time past. Such service which might teach us that for the sake, of 15 rupees we may go and shed blood against our country, against our mother (and) against our religion and thus to set the whole world against us and while making slaves of ourselves should fasten others also with the chains of bondage; such a service I say is not unlawful from to day but from the very day when it was introduced (lit. created) in our country. But I declare again Mussalman soldiers, you should understand it well that your Ulema after carefully considering the religious laws issued this Fatwa which they have explained in their speeches, and today the Khilafat Committee also declares publicly that it has become quite unlawful for you Muslims to continue in this military service of the Government. But I think this is only an ordinary part of the resolution. But (when) you get yourselves ready for the last part of the resolution which is before you, then I say, and there remains no question of your being in service, certainly, there remains the question of civil disobedience. But, brothers, just remember one thing well. While we issued such lengthy

APPENDIX. 'A'

declarations and while we make high-sounding statements and send our resolutions telegraphically before the whole world, we have also got some corresponding responsibilities. Remember, that this is an opportunity for the Hindus and Muslims for the freedom of their religion and country. If today we missed the opportunity, if today we lagged behind, and if we failed to show that amount of sacrifice which is essentially necessary for rising to protest, O Hindus and Muslims, you should remember, O my Sindhi brethren, O Pirs and disciples, you should remember that if today you missed the opportunity, then there is no question of to-day or to-morrow but generations after generations you shall have to remain as slaves and the sons of slaves, you will never get an opportunity to liberate yourselves again. (If) there is any opportunity for your freedom it is to-day. Perhaps there was (such an opportunity) during the war as well. Now it is a thing of the past (and so) let it go. But to-day there is another opportunity. But how? I see many people making high declarations about their valour and bravery, but when they are prosecuted then they become ready to apologise with folded hands. Therefore, brothers, think it beforehand, and avoid all trouble. If you want to give a bad name to the country and nation, then it is better that you should remain aloof and should (simply) help (us) by means of money as much as you can. But do not make empty high-sounding statements. Remember that this (movement) means that however wealthy you may be, whether you may be a young child, or an old man, whether man or woman, (in short) whoever calls himself an Indian he should understand it well what the meaning of the movement is, that he shall have to forego his big houses, big estates, children, and wife. It is quite possible that you have to part with all these worldly things for ever, simply with this view that your children may be able to attain freedom in future, you shall have to sacrifice yourself and you shall have to go to jails. It is also possible that martial law may be proclaimed here: the armies may come here: the police (officers) may also arrest you; and you may be hand-cuffed and fettered. In short everything may possibly be done to insult and disgrace you. But when you are prepared to bear it most cheerfully, to put up with it coolly, when you are ready to die but not to kill (others), then you should understand that victory is yours. (Allah-o-Akbar). But brothers, do not be duped by any. Many of our friends are such as wish to mix with us and join our associations by adopting many devices, and then by becoming our

TRIAL OF ALL BROTHERS & OTHERS.

brothers but they always try to sow seeds of disunion among the brothers and thus serve their purpose which is to get a title or a Jagir or an inch (lit. a small piece) of land from the Sarkar. There are such men amongst you who are chicken-hearted, (here some words can not be deciphered) and know nothing but to criticise; leaving them aside, I think that there are many who are honestly prepared to sacrifice everything for their religion, their khilafat, their faith and for their God. I appeal those who do not wish to make a name and care for honour and who are prepared to sacrifice their life and property and honour for the sake of that eternal honour, the secret of which lies in this movement. Now, brothers, I understand that there are still many persons who would place before you their observations regarding this motion (i. e. the resolution). I do not want to take much of your time. But in conclusion, my submission to you is that you should be prepared by the month of December. I know that at the present time the Government is in a sad plight (lit. bad condition). I know that the Government is anxious to gain its object by every possible means, by deception, by kindness, by love, by favours and by flattery. They have played a trick. It was really a great trick but it was upset. The fact is that both of our brothers (Ali brothers) were quite fat and hale and hearty; they could successfully resist the trick and hence it had no effect on them. Now it is not known what the Viceroy and his thoughtful colleagues are thinking about it in the Simla Hills now. Well (it matters not) what is happening (there). (Here the speaker pointed to the President and remarked):—my brother says perhaps they will be thinking of packing their beddings (laughter). Where would they get sufficient canvass to pack up their things. The question is, let the plans which they are thinking about be welcome to them. You should mind your own affairs and after mature consideration be prepared to act upon the resolution which you will pass to-day and in this way show to the world by creating an example that the Indians who could collect more than one crore of rupees within a month's time, and who could make one crore of members for the Congress in one month's time, can within a period of three months, free their khilafat, their religion and their country from the influence of the foreign Government (Allah-o-Akbar).

True translation,

Sd. MAHOMEDSHAH.

D. S. P.,

Thar & Parker,

L. C. Ex. No. 16.

S. C. Ex. No. 24.

Exhibit No. 16.

Speech reported by Inspector Lakht Hussein C. I. D. United Provinces of Nisar Ahmad's speech on the 6th Resolution on the 9th July 1921.

L. C. Ex. No. 50.

S. C. Ex. No. 25.

(Reported by Inspector Lakht Hussain).

Maulvi Nisar Ahmed, a resident of Cawnpore, while supporting Resolution No. 6 on the 9th July 1921, at night, at the All India Khilafat Conference, Karachi, made the following speech :—

Mr. President and Gentlemen. The resolution on which the Ulema and your best politicians and statesmen have spoken needs no addition on my part. But I have stood before you in due obedience of (the President's) order. O ye Muslims, military service has been declared to be unlawful. It is known to you, as well as to us that according to religion it is not lawful to have any connection with such a Government whose tyrannies, oppressions and breaches of pledges (are well known); and which uses all sorts of devices it possibly can for spoiling the morality and faith (of the people). (To have any relation with such a Government) is absolutely *haram*, i. e. unlawful, and particularly the military service. What is the object of this military service? To render military service to an oppressive and promise-breaking Government which is perfect in (the art of) spoiling the morals of the world and the faith of the world, is (the speaker read an Arabic quotation) as if to help a people. Not to join but to induce others to join, or not to induce others but to remain quiet when such a thing is happening, is according to religion, unlawful. Those who have heard (these speeches) have (now) come to know the religious commandments in this respect, and now it is our duty to inform others who are not present and who have not heard it. Not for the reason that this Government has stood against the Angora Government but because of their past evils, their past acts of oppression, (and aggression,) their breach of promises and pledges, the military service has become unlaw-

TRIAL OF ALI BROTHERS & OTHERS.

ful. Not to say of joining it (military service), it does not look proper for Indians particularly and the Mussalmans even to think of it or even to dream of it (the military service). Besides, you should clearly hear (here the speaker read an Arabic quotation which was read before by some other speakers :—" O devotees of God, O brothers in Islam, you should remember and remember it well that if we join the army today or if we do not join the army but persuade others to do so, and thus side with those who want to demolish our Kaaba, we will be only desecrating Medina, then with what face we will appear before God and His Prophet on the Day of Judgment". Oh Muslims, it is not at all lawful for us (to join the army). All our troubles, misfortunes and evils are due to our acting against the religious commandments. The greater religious crime is this that you and I by joining the army are to fight against the Mussalmans. To day our own attitude has disgraced us to such an extent that the inhabitants of other foreign countries do not like that we should even sit near them. They say: " You are those Indians who become slaves after selling your religion and faith for twelve rupees and then try your best to make others slaves. " The plight is such and we have been so much disgraced. I heartily support this resolution and request you gentlemen to act upon it. (Cries of Allah-O-Akbar).

True translation.

Sd. G. MAHOMED SHAH,

D. S. P.

Thar and Parkar.

Ex. No. 50

Sd. S. M. Talati,

City Magistrate, Karachi.

L. C. Ex. No. 17.

S. C. Ex. No. 26.

Exhibit No. 17.

Speech reported by Inspector Lakht Hussain, C. I. D. United Provinces of Mahomed Ali's concluding remarks, on the 6th resolution, on the 9th July 1921.

APPENDIX 'A'

L. C. Ex. No. 51.

S. G. Ex. No. 27.

Mr. Mahomed Ali's concluding remarks on the sixth resolution at the All India Khilafat Conference, Karachi, on the 9th July 1921, at night :—

Mr. Mahomed Ali said that "This motion which is very important and involves great responsibility and on which depends our future course of action has been put before you. Speeches were delivered in Urdu, English and Sindhi; references were quoted from the Quran and the Hadis and the Dharma Shashtra. Much discussion on it has taken place. Now I wish that if you agree to pass it you should do so by standing."

Accordingly the audience rose up and carried it unanimously, amidst loud applause. None opposed it.

Afterwards the President said :—

"Before I say that this resolution is carried, I request you to accept its grave responsibility. So long as you do not use all your powers to protect your country and religion, you can not attain Swarajya. You should be prepared to give up Government services, because if the Government does not change its attitude before the Ahmedabad Congress meets, you will have to do all these things. The Sindhis will not get time now to sleep. Now the time has come when every community should work to its fullest capacities, so that the religion and the country both might be benefitted thereby.

May God grant us strength to carry it out. Amen"

True translation

Sd. G. MAHOMED SHAH,
District Superintendent of Police.

Thar and Parker.

Reported by Inspector
LAKHT HUSSAIN.

TRIAL OF ALI BROTHERS & OTHERS.

S. C. Ex. No. 28 is deposition of Shan Bahadur.

L. C. Ex. No. 19.

S. C. Ex. No. 29.

It is the same L. C. Ex. No. 13 & 47 & S. C. Ex. No. 18 at page 20 of Appendix 'A'. (Compiler).

L. C. Ex. No. 20.

S. C. Ex. No. 31.

It is the same as L. C. Ex. No. 48 & S. C. Ex. No. 21 at page 21 of the Appendix 'A'. (Compiler).

L. C. Exts. Nos. 21 and 22, with corresponding Sessions Court Exts. Nos. 54 & 55 were not put in as exhibits in the Court of Sessions.

They were speeches of Dr. Kitchlew and Moulvi Nisar Ahmed as taken down by Shan Bahadur. Lakhat Hussein's version of these speeches has already been put in. (Compiler).

L. C. Ex. No. 5 D.

S. C. Ex. No. 34.

Shorthand notes of the speech of Bharti Krishna Tirathji accused No. 6.

L. C. Ex. No. 5 E.

S. C. Ex. No. 35.

Speech of Venkatraman alias Bharati Krishna Tirthaji in support of the 6th Resolution at the All India Khilafat Conference held at Karachi 9th July 1921.

The resolution that has been placed before you and which it is my pleasure and my privilege to speak to you on, is one of the greatest importance. It is of the greatest importance spiritually and politically as I regard the political and all the various activities of the world as coming under the domain of spirituality. I am here to-day to speak in favour of this resolution from the spiritual standpoint, which necessarily includes the political too. I speak from the Hindu ecclesiastical standpoint, because I regard the Khilafat as a question of supreme dharmic importance. Taking it merely from the abstract point of view of religious interests involved, without reference to the Khilafat as such, all Hindus must necessarily sympathise with any such religious interest for the reason that the hands that can use violence towards religious shrines in this way with regard to one religion will not hesitate to do the same thing with regard to other religions tomorrow. (Hear, hear).

The fate that threatens to overtake Islam, if Muslims and Hindus together will not stand up against it, will naturally overtake Hinduism. Even from that abstract point of view, even for their mere selfish interest, it is necessary that Hindus should sympathise whole-heartedly with the Khilafat movement. But apart from that I am here to go categorically into the question of the Khilafat and demonstrate how closely it is allied to our dharmic interests. In the course of her speech on a resolution presented to you during the course of the day, Mrs. Sarojini Naidu mentioned that Mecca ought to be to Hindus as Kashi or Rameshwar. That was not a statement merely of a sentimental character, but a statement which I am here to substantiate with my ecclesiastical responsibility from the point of view of the Hindu shastras. We have it definitely said to us in the Puranas and various other works of our shastras that Mecca is as sacred to Hindus as Kashi. We are told in the description of the final deluge of the world that when the whole world becomes irreligious and deserves to be swept off, only two places will remain, and those are Kashi and Mecca. Shri Krishna, the name we give to the Almighty, will come down and save the faithful at that last moment, and we are told that his right foot would be at Mecca and his left foot at Kashi. This is what we are told about the future of the world, when the faithful are to be saved, are to be garnered at these places from the end of the world. We are told that the residents of Kashi and Mecca will remain. The faithful Hindus who are devout followers of Hinduism would be garnered in Kashi and the faithful followers of Islam in Mecca. And then again in the history of Adi Shankaryacharya, in whose spiritual succession I have the humble privilege of having come, we are told that he underwent lots of difficulties and persecution from his own countrymen, because he undertook pilgrimage to Mecca and completed it. We are told difficulties of various sorts were placed in his way and in spite of them he completed his pilgrimage. And I should be unfaithful to the position I have been called upon to fill to-day if I should not regard Mecca as being a place of intense sanctity to the Hindus, equal in sanctity to Kashi. Going thus into the technical ecclesiastical point of view also, we see that Khilafat is a matter of vital importance to every Hindu who believes in Hindu scriptures.

• What is the position of Khilafat? We find that the Khilafat is imperilled chiefly because of the British Government. We find that

TRIAL OF ALI BROTHERS & OTHERS.

although Khilafat has many enemies, the most insidious of them is the English Government. Mr. Lloyd George with slipperiness of character beating an eel, Mr. Lloyd George with his acrobatics of all sorts where no one can be sure of his Imperial position because he has not any of his own, he is chiefly responsible for the trouble that we have with regard to the Khilafat to-day. We find that the Turkish Government at Constantinople has been made practically helpless to help the cause of Khilafat, and when many of the Mussalmans there on account of conditions and circumstances beyond their control, find themselves helpless, it is the duty of the Moslems over here and in other parts of the world to help them, and it is the duty of the Hindus to see that the struggle is kept up until victory is attained. People who have selfish interests, who have immediate political purposes to serve..... but these would be temporary because their minds are temporary. We have faith. Where there is dharma there is victory ultimately sure. And, therefore, feeling our faith in the victory which is absolutely certain as the result of dharmic activity, we have to struggle on and see the Khilafat properly looked after. We find persons who have no sense of ethics, even in the most fundamental way, coming forward and telling us that the Khilafat rights of Turkish rulers were of very recent origin. They are going back into historical origins and trying to find out the original rulers of the religious places. This history is very interesting and instructive. If it were sincere and not hypocritical it would be immensely gratifying and edifying because it is really a moral. But I would ask you to remember that the Englishman, having something of..... in mind with rare exception, generally finds some ethical grounds for covering his own robberies. You know that most of the lands in England to-day came into the hands of Englishmen either at the time of William the Conqueror, or those lands which did not come into the hands of the families of the present owners through William the Conqueror came because of (Henry's) depredations into England. If you try to analyse the whole history of England from this point of view, you will find that the parties who despoiled it..... If England which is so desirous through the mouth of Mr. Lloyd George and others to ensure justice from an ancient historical point of view, will set the example by evacuating not merely India, but would go further and evacuate England and retire to Saxony, Holland, Denmark and Norway, then we can believe that the

Khilafat is of recent origin. We shall not be deluded by any such false logic. Khilafat is a burning question because its connection with Hinduism is such. If we allow such depredations to take place in the case of Khilafat, it means that we encourage such people to persist in their acts of brigandage and that such brigandage can go absolutely unpunished. That is a position we should safeguard ourselves against.....and the Government which is capable of doing this is the Government at Angora. We are trying to break our fetters and be free. The Angora Government is the one which has the power, physical and otherwise, to help in the cause of the Khilafat directly, and therefore we who have sympathy with the Khilafat cause, cannot but sympathise with the Angora Government and feel for its sorrows and do everything we possibly can to bring about the success of this Government. Under these circumstances it is necessary that we should make up our minds as to our line of conduct here.

We have failed by all sorts of attempts to move the British Government. The Punjab wrongs and the Khilafat wrongs remain unredressed to-day, as they were in the past. We have no option but to take the matter in our own hands and to see restitution ensured and the wrongs immediately redressed with the least possible delay. And therefore it is that we proclaim to the world that unless the Khilafat wrong is rectified in the near future, and especially if Government should add to the wrong by declaring war on the Angora Government, we shall have no option but to declare the Indian republic. Our Swaraj for which we have been fighting will soon have to be determined. Whether Swaraj is to be within the Empire or without it has been left undecided at Nagpur. It has been deliberately left undecided. But if it should be impossible to remain as self-respecting persons, when we find that our religious sentiments are being trampled upon, we should draw aloud the line and say thus far and no further. But, while we are trying to establish swaraj in this way there is no violence that we have our minds bent upon. We mean to have swaraj without using violence. Thus, the republic that we want will have to be achieved by non-violent means, and this will naturally mean a great deal of suffering. We shall have to fill all Indian jails until we find that they have no more jails to clap us into; and then we shall be freed because of that reason. And when that

TRIAL OF ALI BROTHERS & OTHERS.

time comes it would be found that there would be no difficulty about Swaraj. Our internal suspicions and jealousies, which made us lose Swaraj in the past, these things must go; and when they do go, swaraj is already within our grasp. Swaraj can be achieved, because it is the final alternative we are driven to by enormous suffering. Let not sufferings frighten us. Let us take an example from the Hindu Puranas. Shri Krishna has said in the Bhagvad Gita that the Devas churned the ocean for the sacred Amrita. In the beginning large numbers of most precious diamonds came out of the ocean, and even the Goddess Mahalaxmi. But even then we find that the Devas did not forget the goal they were after. Here in India we find an exact parallel, and there we shall have to take this example. This ocean of politics to-day is agitated in such a way. From out of this political ocean we should get the Amrita of Swaraj. Similarly undeterred by concessions and promises and by all sorts of things of that character, and undaunted by repression on the other hand, we shall have to push on until we have turned out of the ocean of agitated Indian politics the Amrita of Swaraj. This is the message which I would ask you to bear in mind and to bring into practice. With these words I would suggest you to accept this resolution unanimously. I commend it to your acceptance from the Hindu point of view solely and not merely from the political standpoint.

L. C. Ex. No. 25.

S. C. Ex. No. 37.

The seventh resolution moved was the most important. It read as follows "That this meeting of the All India Khilafat Conference congratulates Gazi Mustafa Kamal Pasha and his Government on the courage and suffering they have shown to save Islam and prays that they may be able to drive the foreigners out of Turkish Territory."

2. It further declares unlawful for any faithful to serve from today in the army or help or acquiesce in the recruitment.

3. It further decides that if the British Government directly or indirectly, openly or secretly fights the Angora Government the

APPENDIX 'A'

Muslims of India will start civil disobedience and establish their complete independence at the next session of the Indian National Congress to be held at Ahmedabad and hoist their national flag of the Indian Republic.

L. C. Ex. No. 24.

S. C. Ex. No. 39.

THE DAILY GAZETTE July 11th 1921.

KHILAFAT CONFERENCE AT KARACHI

MUCH RHETORIC AND MANY RESOLUTIONS.

CONFIDENT HOPES EXPRESSED OF SWARAJ IN A HURRY.

Third days' Sessions ends yesterday.

Report of the Seventh Resolution proposed on 2nd day of the proceedings put in.

The Seventh Resolution moved was the most important. It read as follows :—“ That this meeting of the All India Khilafat Conference congratulates Gazi Mustafa Kamal Pasha and his Government on the courage and suffering they have shown to save Islam and prays that they may be able to drive the foreigners out of Turkish country.”

2. It further declares unlawful for any faithful to serve from today in the army or help or acquiesce in the recruitment.

3. It further decides that if the British Government directly or indirectly, openly or secretly fights the Angora Government the Muslims of India will start civil disobedience and establish their complete independence at the next session of the Indian National Congress to be held at Ahmedabad and hoist their national flag of the Indian Republic.

TRIAL OF ALI BROTHERS & OTHERS.

This resolution was moved by Maulana Hussain Ahmed who said that the Muslims were enjoined by their religion to fight the enemies of Islam and drive the infidels away but instead of that they had rather helped them and committed thereby a great sin. Pir Ghulam Mujadid translated the resolution in Sindhi and said that the command of God to fight the foe of Islam was an ancient one.

Dr. Kitchlew who made a very forcible speech called upon Muslims to hear the injunction of their Holy Quran and not dread the Government in any way. The resolution had already been passed at the Karantac Conference but had been repeated so that the Government may understand that if they intended to fight the Turkish and Angora Government the Hindus and Muslims of India would declare their independence at the Ahmedabad Congress. Since the starting of the Khilafat movement they had passed resolutions, sent deputations and delivered lectures to the effect that the question was one which concerned their religion but they had not been heeded to. Mr. Lloyd George had called it the "Last Crusade" and thereby challenged the whole world of Islam. He had boasted of the strength of military powers but the Mussalmans would teach him a lesson. They had long been deceived by the false declarations of the Government but they were now awake. The ultimatum had been given and if it remained unaccepted after three months, by December next they would establish their own Government. A pay of 10 or 15 rupees had converted the Indian Sepoys into slaves but they should now take it as Haram for them to serve the Government any longer. Their duty clearly was to liberate their religion and country. If they did not do it now they should bear in mind that they will remain slaves for years. They should get ready to sacrifice everything and God helping they would have Swaraj by December. The Government was in a very bad plight and was anxious to make overtures to them but they should no longer be deceived.

Moulvi Nisar Ahmed of Cawnpore said that there was nought for them but to obey the order. They should Non-Co-operate with the tyrants, parleying with whom was Haram and opposed to the dictates of their beloved Prophet.

APPENDIX 'A'

Jagat Gura Shri Shanker Acharya said that he was there to lend his ecclesiastical support to the movement and considered it a pleasure and privilege to do so. Speaking from a spiritual stand point he considered the Khilafat as of supreme Dharmic importance. All Hindus should sympathise with their Muslim brothers because the power that had caught hold of the Muslim Holy places would not spare those of Hindus. To him Mecca was as sacred as Kashi. The Adi Shanker Acharya whom he followed in pontifical succession had performed a pilgrimage to Mecca and he considered it therefore equally sacred for the Hindus. The Angora Government was the only Government at this stage to protect the Khilafat and the Muslim sympathies therefore naturally went to it. They had tried to bring about a change in the Government's attitude but all efforts had been in vain. They had therefore resorted to Non-co-operation to establish Swaraj which would solve all difficulties in their details. He felt that the Devas were churning the troubled ocean of Indian politics and luring out the Amrita of Swaraj from it.

Cries of Allah-o-Akbar rang all round as he concluded. The resolution was carried by all standing.

L. C. Ex. No. 38.

S. C. Ex. No. 42.

NEW TIMES MONDAY 11TH JULY 1921.

ALL INDIA KHILAFAT CONFERENCE.

REPORT OF THE 3RD SITTING.

Exactly at 10 p.m. last night in came the President and his party in the Pandal amid deafening cries of Allah-o-Akbar and Vande Matram. Before the proceedings began two very spirited national songs framed by Maulana Mahomed Ali in jail, were sung by a Khilafatist. The President then asked Maulana Fakir Ali Sahib of Oudh, to propose that this All India Khilafat Conference allows

TRIAL OF ALL BROTHERS & OTHERS.

the Central Khilafat Committee to send its men whenever necessary to other Muslim countries of the world to educate the people there, make them alive to the present situation and to enhance brotherhood.

Maulana Fakhir Ali in the very beginning described the beauties of Islam and its teaching of Ulfat, Mahabat, and Ishiq.

He then described the oppression practised on the leaders of Islam now a days and advised that oppression would be destroyed only by union of all Muslims of the world.

Moulvi Sheikh Abdul Majid of Hyderabad Sind in seconding this resolution appealed to all Pirs and Moulvies to rise to their sense of duty and have the unity of all Muslims established. It was imperative according to the orders of Prophet Mahomed (May salutations be on him). He said that the corpse of even the Prophet Mahomed was not buried until the Khilafat question was decided, so the Muslims of to-day should also not expect to have a seat in the grave until they decided the Khilafat question of to-day. He appealed in very spirited words to establish unity among all Muslims so that they may destroy these tyrannies and attain Swaraj without which the solution of the Khilafat was impossible. For swaraj, they must bear up all sufferings and sorrows and even sacrifice their lives if need be.

The resolution was then put to vote and passed unanimously. The second resolution ran as follows :—

(a) That this All India Khilafat Conference congratulates Gazi Mustafa Kamal Pasha and his Government for the bravery they have shown and the sufferings they have endured to save Islam and prays that they may be so powerful as to destroy the foes of Islam.

(b) It also decides that it is haram for all faithful Muslims to serve or recruit others in the British army from to-day.

APPENDIX 'A'

(c) It also decides, that if the British Government are going to fight against Angora secretly or openly, civil disobedience will be resorted to, and with the aid of the Ahmedabad congress Indian National Government will be declared under our National flag.

*Notes:—*For the Speeches read S. C. Ex. 39 at page 44.

L. C. Ex. No. 27.

S. C. Ex. No. 48.

Urdu notes of Mr. Shaukat Ali's speech.

L. C. Ex. No. 56.

S. C. Ex. No. 49.

English translation of Urdu notes.

Reported by Inspector Karamchand of the Sind C. I. D. Mr. Shaukat Ali's speech at the first Sahti Political Conference at Naushahro Feroz on 11th July 1921, in support of the 5th resolution. Mr. Shaukat Ali delivered the following speech in support of the 5th Resolution and congratulated national workers who have gone to jail owing to the repressive policy of the officials. This resolution was moved by Sheikh Abdul Majid.

"My dear Hindu and Muslim brethren. I support the resolution proposed by my brother Sheikh Abdul Majid. I am thankful and am glad that I have come here to day. You think that I must have been inconvenienced on the way but I assure you that one who desires the freedom of India does not mind this inconvenience. We have to liberate India and we have to destroy the enemies of Islam and hence this trouble is not much. Since we have taken up this work in our hands we have resolved that we will sacrifice our lives and property and our relations for the sake of God; there is nothing (no substance) in this Government and it is just like a football filled with air. Make a little hole in it and the air will go out. We have resolved that either we shall force Government to do justice to the Punjab and Khilafat and grant us Swaraj so that there may remain no possibility of oppression or we will establish Swaraj ourselves even if lacs and crores of our lives may have to be lost.

I wish these our brethren who are taking notes of speeches had been Collectors and Governors. They are with us. I tell them that we are not afraid of the English but we are afraid of God. You

TRIAL OF ALI BROTHERS & OTHERS.

(reporters) and we are opposed to each other. He recited a couplet the translation of which is as follows :—

“Go on inflicting oppressions and tyrannies, and never cast an eye of love”... ..The more the jails are filled up the more workers will come forward. The shedding of blood of one Mahomed Ali or Shaukat Ali or Choithram will produce lakhs of others.

The news of our proposed arrest has been heard ten times. (Here the speaker recited an Urdu couplet the translation of which is as follows :—“The air was thick with the news that Ghalib (an Urdu poet) would be torn to pieces. We too went to see the ‘tamasha’ but it did not come off.”) The Government knows that by our arrest this work can not be stopped. Hundreds are being sent to Jail. Mahomed Ali and Shaukat Ali were deceived into tendering an apology. Send them to-day to jail, they will never ask for pardon. It has been considered a joke to dishonour a religion and to insult one’s females. It is considered a joke to cane boys. India curses such a Government. Mahatma Gandhi has told us that he would be arrested on the 1st of November. Brethren be men. Manliness is a part of faith; If you are afraid you are not mussalmans. If you are afraid of any Hakim you are not Mussalmans. What answer will you give before God; join the Congress, remove boys from the Government schools and send them to National schools. Talk less and show some practical work. Every Mussalman is bound by his religion to boycott foreign cloth. The question of boycott of liquor will be decided in the next month. Five crores of volunteers will be enlisted who will surround the liquor shops. The Government will shoot us, and will obstruct us so much so that if one is killed another will take his place, and we will blacken the face of this Government in this world that it sends people to jail for boycotting liquor, a forbidden thing.

I claim that certainly there will be an attack upon India, and if the sacred places are not vacated, which army will go to help the English? Addressing the reporters he said, “take this down.” I also claim that time will come when these people will tear up these papers and will join us. (Cries of Allah-O-Akbar.)

He explained his private history and added :—

APPENDIX 'A'

"I know if the Indians withdraw from work in Government offices they (Englishmen) can not pull on with work for 5 days. They are busy in drinking and playing other rascalities. They are busy in jokes with other peoples' women.

Have courage, be men, use spinning wheels and resign appointments. It is "Haram" to serve in the army. Give money for the Swaraj Fund. There will be a war. See, with the grace of God, what has happened in three months. I am going away to-day. If any Government servant will come to arrest me I will bow my head and accompany him. I have been tired and will put Government to expense and will do that work in the jail which I can not do out side it.

True translation,
Sd. G. MAHOMED SHAH.
D. S. P.

Thar and Parker.

L. C. Ex. No. 34

S. C. Ex. No. 51.

Urdu leaflet being a proclamation for inducing soldiers not to serve in the Army.

L. C. Ex. No. 57

S. C. Ex. No. 52.

Sharait Fatwa of Ulema of the whole of India.

- 1 To become members of the Government Councils is unlawful.
- 2 Practising as lawyers in British Courts, is unlawful.
- 3 To read in Government or Government aided schools is unlawful.
- 4 To remain as Honorary Magistrates or hold other honorary posts and keep Government titles are unlawful.
5. All Government services which assist 'Sarkar' are Haram. Particularly it is a great sin to serve in the police and the army, because they are required to fire upon their brethren. God enjoins.....
(ait of Surai-Nisa in Quran Sharif).

TRIAL OF ALI BROTHERS & OTHERS.

Translation.—He who intentionally kills a Mussalman will be tortured perpetually in hell.

The prophet, praise be to Him and to His descendants, has said (Arabic Hadis)

Translation.—He who raises arms against a Muslim, is no longer a Mahomedan.

This Fatwa bears the seals of :—

- 1 Moulana Abul Kalam Azad.
- 2 Moulana Mufti Mahomed Kefayatullah of Delhi.
- 3 Moulana Azad Subhani of Cawnpur.
- 4 Moulana Mahomed Daud Ghazamvi (Amritsar).
- 5 Moulana Abdul Bari of Lucknow.
- 6 Moulana Sana Ullah of Amritsar.
- 7 Moulana Aziz-ul-Rahman Mufti of Darul-ul-um Deoband and other leading Ulema of India.

The original Fatwa can be obtained from the Jamiat-ul-ulema Hind Delhi.

Note—The same kind of proclamation has also been made by Mahatma Gandhi and other Hindu and Muslim leaders of India.

Publisher—Nizam Umumi Durat Hind Delhi (General secretary of Indian Publishing House Delhi).

True Translation,
Sd. MAHOMEDSHAH.

D. S. P.,
Thar and Parkar.

L. C. Ex. No. 41.

S. C. Ex. No. 54, 55, 56, 57, 58 and 59.

Note.—This Ex. is the Stock Book of The Central Khilafat Committee Bombay. Each item from February to July from this stock book was put in as a separate exhibit and marked as Nos. 54 to 59 (Compiler).

APPENDIX 'A'

L. C. Ex. No. 43 A.

S. C. Ex. No. 60.

In the name of God.

Complete proceedings (of the) (In bold type) Jamaite Ulemai Hind.

Which also include :—

The Presidential Address of the late Moulana Moulwi Mahomed Ali Nassan, the resolutions of the Jamait Ulemai Hind held at Delhi and the joint Fatwa issued by the Indian Ulema with the Fatwa of the Shiekh-Al-Hind.

Published by the Honorary Secretaries of the Central Khilafat Committee India, from the Khilafat Office at Bhindi Bazar Bombay.

(Sd.) Superintendent Central
Khilafat Committee of India.

500 Copies to be printed.

14-2-21.

L. C. Ex. No. 3 A.

S. C. Ex. No. 61.

Receipt in Peon's delivery book.

L. C. Ex. No. 43 B.

S. C. Ex. No. 62.

Extracts from papers sent to the press. (Same as Fatwa) (Compiler).

L. C. Ex. No. 66.

S. C. Ex. No. 65.

Notes in Marathi short hand of Mr. Shawkat Ali's speech delivered at Poona.

L. C. Ex. No. 67.

S. C. Ex. No. 66.

Speech of Mr. Shaukat ali at Poona on the evening of the 17th June 1921.

TRIAL OF ALI BROTHERS & OTHERS.

Mr. Shankat ali said, "I will be troubling the Government as well as the public so long as we do not collect the money. The Bezwada programme will be completed. The N. C. O. committee has decided about the Khilafat. We will hold the Government responsible until this is completed by the Hindus and the Mahomedans and then we shall proceed and break the laws. The funds collected from the Hindus and Mahomedans will be termed "Discharged soldiers Fund" and the soldiers who will leave the service will be paid out of (this fund)."

Sd. H. MUZEMUDAS,

S. I., C. I. D.,

Poona.

L. C. Ex No. 59.

S. C. Ex No. 68.

Notes in Marahati short-hand of Mr. Mahmed Ali's speech at Gokak.

L. C. Ex. No. 60

S. C. Ex. No. 69.

Sd. S. M. TALATI,
City Magistrate, Karachi.

Translation of the speech made by Mr. Mahomed Ali at the Belgaum District Khilafat Conference held at Gokak on 19-6-21.

"The whole Conference has only one resolution. There is not a single meeting held as yet in which 10-15 resolutions have not been passed. But when we have to work such resolutions should be passed. One resolution has been prepared for this Conference. I shall read the resolution to you in Urdu and English. I will not speak anything thereon. Please hear it. If you agree with it and are prepared to work according to it please raise hands.

The resolution (read in Urdu):—

This Belgaum District Khilafat Conference thinks it necessary to state that it is a sin for the Mussalmans to remain in The British Army and to be recruited or to assist recruiting for war service. If the

APPENDIX 'A'

British Government declares war against the Islamic Angora Government, it will be our duty to.....Civil Disobedience as per congress and to declare India's freedom at the Amedabad Congress in December next.

The resolution (read in English) :—

This Khilafat conference of the Belgaum District considers it very necessary to make it plain that it is forbidden by the law of Islam to remain in the British Army and is not allowed to Mussalmans to give any assistance as recruits and if the British Government openly or secretly re-opens hostilities then with the permission of Congress to start Civil Disobedience. Then in December at Ahmedabad to declare for the complete freedom of India and announce the commencement of Indian Republic.

I do not wish to make any speech. Do as you please in obedience to God."

Sd.

Acting Sub-Inspector of Police.
C. I. D. Poona.

L. C. Ex. No 63.

S. C. Ex. No. 71.

Filed on 27-9-21—Sd. S. M. Talati, C. M.

S. I. Nirwan's version.

Resolution moved by Mr. Mahomed Ali in the 1st Belgaum District Khilafat conference held at Gokak on 19-6-1921.

It is in Marathi language.

L. C. Ex. No. 64.

S. C. Ex. No. 72.

• Literal translation of the above Marathi notes:—

This Khilafat conference of the Belgaum District resolves that the Mahomedans should not remain in service of the British Army and that none should enlist in the army and the Mahomedans should

TRIAL OF ALI BROTHERS & OTHERS.

not recruit and should not assist under any circumstances and if the British Government would declare war or induce any other to do so against the Angora Government then it would be our duty to resort to Civil Disobdience and in December at Ahmedabad in the Congress declare the freedom of India and announce Indian Republic.

Sd. NIRWAN.

S. Inspector of Police C. I. D. Poona.

L. C. Ex. No. 74.

S. C. Ex. No. 74.

- 1 One book "Open Rebellion in Punjab."
- 2 2 sheets of L. Paper with one resolution of the Belgaum District Khilafat Conference containing Urdu verses on the reverse.
- 3 One bound book containing Travelling accounts and Khilafat Receipts in Urdu—2 Visiting cards of Mr. Mahomed Ali.
- 4 One torn paper containing draft resolution of the all India Congress Committee.
- 5 One half full scap sheet—copy of telegram from Mr. Gandhi to Mahadev.
- (2) A draft from Mr. Mahomed Ali re-non-violence.
- (3) Three sheets of Mr. Mahomed Ali re-non-violence with an Arabic heading.
- (3) Draft statement from Mr. Gandhi to the Viceroy Lord Reading.
- (5) Draft statement from Mr. Gandhi re-non-violence with Mr. Mahomed Ali's corrections.
- 6 Three sheets, typed draft of an agreed statement to be issued by Mr. Gandhi and the Viceroy re Ali Brothers statement and regarding Mr. Gandhi's interview with Lord Reading.
- 7 Eleven Carbone copies of "extracts from the speeches delivered by Mr. Mahomed Ali and Mr. Shaukat Ali."

APPENDIX 'A'

8 One visiting card of Le Chevalier G. de Von Dir Schuerem.

9 A cutting from "Times of India" containing a copy of Mr. Montague's letter to Indian Moslem delegates.

10 Eight pages of printed examination paper of the "National University Aligarh."

11 Two sheets of "Echo de'Islam" (newspaper).

15th Sept 21.

Sd. Mahomed Ali

12 One copy of a persian newspaper Azadi-i-sharg inset *was wir woolen*.

13 The Typed sheets containing agenda of the working committee of the All India Congress Committee.

14 Twenty three typed pages of the report of Khilafat deputation presented by Dr. M. A. M. Ansari.

15 Three printed pages of the Indian National Congress Bulletin No. 10 by N. C. Kalkar.

16 Two printed sheets of Agenda of the business to be brought up before the working committee to be held at Anand Bhavan Allahabad on 10th May 1921.

17 Sheet of letter paper containing draft resolution in urdu.

18 Two half sheets of torn letter papers containing urdu in purple ink.

19 Two sheets of large size letter paper written in urdu.

20 Two sheets letter paper containing urdu writing in black ink.

21 A half sheet of letter paper containing urdu verses.

22 Two sheets of paper containing list of number of receipt books of Khilafat issued to Begum Mahomed Ali.

23 One half sheet of foolscap paper containing a statement of Ali Bros. re: non-violence dated Bombay 29th May 1921.

TRIAL OF ALI BROTHERS & OTHERS.

24 Two sheets of typed paper containing translations of letter from G. Kemaly to Ahmed Haji Siddikh Katri Hotel Boston Rome dated 8th June 1921.

15-3-21.

Sd. MAHOMEDSHAH,
D. S. P.,
Thar & Parker.

25 A sheet of note paper, grey granite, containing four addresses of Arabic scholars.

26 One book "Smyrne Turque".

27 One book "L Assistant d' un-peuple by Ghalib Kemaly Bey (Rome 1920).

28 Six half sheets of manuscript containing translations of "open letters to the Maulana Sahebs".

29 One Calico bound flat file containing following news papers

Islamic News 21st April 1921.

The Independent, 7th June 1921.

do 4th June 1921.

do 21st May 1921.

do 20th May 1921, and one letter from Constantinople dated 9th May 1920.

One blank cover with address "Said Mahomed Ali Khan".

Two news paper cuttings.

Two typed half sheets.

(1) Extract from Hansard, 9th June 1920.

(2) Revolt in Persia. Extract from Daily Telegraph dated 10th June 1920.

30 One J. B. Telegram form (used) addressed to Hazart Moulana Shaukat Ali.

31 One temporary receipt of Central Khilafat Committee, Bombay No. 1220 dated 22nd July 1921.

APPENDIX 'A'

32 One temporary receipt of Central Khilafat Committee, Bombay No. 1182 dated 16th July 1921.

33 One sheet of printed Urdu.

34 Two red covered Khilafat Receipt books containing receipts for Rs. 5 each from Nos. 022776 to 022800 and No. 022801 to 22825.

Sd. MAHOMEDALI,

15th September 1921.

35 Two blue covered Khilafat Receipt Books containing 25 Rs. 10 receipts each. Nos. From 14326 to 014350 and 014351 to 014375.

36 One yellow covered do do one rupee receipts containing ninety nine (one previously torn) from No. 403102 to 403200.

37 One yellow covered do do do from No. 403083 to 403100 (63 receipts).

38 One do do without yellow cover containing twenty one receipts from Nos. 402980 to 403000.

39 Tilak memorial Fund one rupee receipts from Nos. 60001 to 60100 (One hundred).

40 do do from Nos. 60101 to 60200 (One hundred)

41 do do containing receipts Nos. 60279, and Nos. from 60285 to 60300 (Seventeen).

42 An address in Urdu nailed to a deal wood plank.

43 One visiting card "Vrajlal Raichand".

44 Two cards containing the receipts of amounts collected by various parties.

45 Two telegraph receipts dated 9th May 1921 and 11th May 21.

46 Cutting from Daily Telegraph "Ali Bros. Recant".

47 One Persian newspaper.

TRIAL OF ALI BROTHERS & OTHERS.

48. Ten half sheets of typed paper containing Agenda of business of congress working committee dated 10th May 1921.

49. Prize notification of the Benares students Central Association 1921.

50. One small cutting from W. paper "Opportunity" by Walter Malone.

51. Two sheets containing "Proceedings for placing persons under restraint as state prisoners".

Sd. MAHOMEDALI,

15th September 1921.

Fifty only as noted on various sheets.

Sd. NOT LEGIBLE.

List prepared in presence of prisoner Mr. Mahomed Ali. Fifty one items each containing various papers.

Sd. M. J. NOT LEGIBLE,
Superintendent Vizigapatam
Central Jail.

L. C. Ex. No. 29.

S. C. Ex. No. 79.

Important clauses 11 to 14 only referred to in the case are printed here.

Filed on 27th September 1921.

Sd. S. M. TALATI.
City Magistrate Karachi.

11. Are you willing to go wherever ordered by land or sea, and allow no caste usages to interfere with your military duty?
12. Are you willing to be permanently transfered at any time when necessity arises, to any corps of the group to which the corps in which you are then serving belongs? (d)

APPENDIX 'A'

12. Are you willing to be vaccinated or re-vaccinated?

14. Are you willing to serve until discharge in accordance with the following conditions provided His Majesty shall so long require your services? (e)

(i) When you have served four, five and ten years from the date of enrolment attestation you will be entitled to receive your discharge within two months from the date of applying for it, unless war is imminent or existing or the squadron, battery or company to which you belong is ten per cent. below strength, provided that in the event of your deserting, service between date of desertion and date of apprehension or surrender shall not reckon as service towards discharge,

(ii) You will be entitled to your discharge at any time unless war is imminent or existing, provided that, if you are discharged at your own request before having served two years in the Reserve, you will before being so discharged be required to refund the amount expended on your passage when you were enrolled in the reserve.

TRIAL OF ALI BROTHERS & OTHERS.

Filed on 27th September 1921.

Sd. S. M. TALATI,
City Magistrate, Karachi.

11. Are you willing to go wherever ordered by land or sea, and allow no caste usages to interfere with your military duty ?
12. Are you willing to be permanently transferred, at any time when necessity arises, to any corps of the group to which the corps in which you are then serving belongs? (d)
13. Are you willing to be vaccinated or re-vaccinated ?
14. Are you willing to serve until discharged in accordance with the following conditions provided His Majesty shall so long require your services ?

When you have served for 6 months after the conclusion of the present war you will be entitled to receive your discharge with all convenient speed.

L. C. Ex. No. 31 A, 31 B & 31 C.

S. C. Ex. No. 81 A, 81 B & 81 C.

Urdu leaflets being proclamations asking soldiers to leave the army.

S. C. Ex. No. 82 & 83.

Copy of telegram produced by Col: Gwyer re-Subedar Jairam being ill Ex. 82 and Reply Ex. 83.

L. C. Ex. No. 84.

S. C. Ex. No. 85.

Another copy of Urdu leaflet asking soldiers not to serve in the army, produced by Azizudin.

L. C. Ex. No. 86.

S. C. Ex. No. 87.

Another urdu leaflet asking soldiers not to serve in the army produced by witness Mahomed Hussein.

APPENDIX 'A'

L. C. Ex. No. 32.

S. C. Ex. No. 88.

Deposition of Jairam in Lower Court (Ex. No. 32 in committal proceedings) put in as Ex. No. 88 on account of the witness, being ill.

Ex. No. 89.

Oral Statement of the accused No. 1 in the Court of Committal.

Ex. No. 90.

Written Statement of the accused No. 1 in the Court of Committal.

Ex. No. 91 to 96.

Written Statements of accused Nos. 2 to 7 in the Court of Committal.

They are all printed in Committal proceedings (compiler.)

APPENDIX 'B'

Exhibits in the

Case of

CROWN

Vs.

MOULANA SHAUKAT ALI

Under -

Sec. 124-A and 153-A I. P. C.

APPENDIX 'B'

Ex. No. 4.

Notes of Urdu speech of Mr. Shaukat Ali made on 10th July 1921 on Resolution No. 8 and taken down by Lakhat Hussein.

Ex. No. 6.

Notes of Urdu speech of Mr. Shaukat Ali made on 10th July 1921 on Resolution No 8 but taken down by Shah Bahadur.

Ex. No. 9.

It is the same as Ex. No. 56 corresponding to L. C. Ex. No. 49 in Appendix 'A'.

Ex. No. 11.

It is the same as the last part commencing with Resolution second in third day's proceedings of L. C. Ex. No. 24 corresponding to S. C. Ex. No. 39 in Appendix 'A'.

S. C. Ex. No. 34 of 1921.

Ex. No. 6.

All India Khilafat Conference Karachi.

Dated 10th July 1921.

Resolution No. 8.

"This meeting of the All India Khilafat Conference very strictly draws the attention of the Mussalmans of India and especially of the District and Provincial Khilafat Committees, to complete the required number of one crore of the Khilafat members, as early as possible and to give practical proof of the love of Islam to the country and the nation by raising a subscription of 40 lacs of rupees for the oppressed people of Smyrna, 'Mahajarins' and other national necessities".

This resolution was moved by Maulana Shaukat Ali.

Sd. SHAH BAHADUR KHAN,

S. I., C. I. D., U. P.

Reporter.

TRIAL OF ALI BROTHERS & OTHERS.

True Translation.

Sd. RAMKRISHANA,
Urdu Translator.

Dated 27th October 1921.

Ex. No. 15.

Translation of Inspector Lakht Hussein's (C. I. D. U P.) notes of a speech delivered by Maulana Shaukat Ali on the 10th July 1921 at Karachi in support of the 8th Resolution of the All-India Khilafat Conference.

Mr. President, my Hindu and Muslim brothers and sisters. ~~My~~ voice is defective and weak, neither can I speak for a long time nor loudly. If you have patience I shall only dwell upon these matters which are important for five minutes.

Brothers and sisters: The task which is before India is known to all Indians and particularly to Muslims. Their hearts are full of pus by having seen the actions of the Government for the last seven years. We have no patience in our hearts. We are tired of constant working and making exertions. God is soon to bring out the consequences of our as well as your efforts. It is a question of only three months, Brothers. There is weariness, difficulty and distress. The faith, sympathy, patriotism, love of children, honour of wives, and love of country of the Hindus and Mussalmans are to be tested within these three months. This is a very critical moment. I wish (and this was the only object of holding the Conference here) to tell all of you brothers that *now is the time for final work and final moment of Ordeal*. If you carry on your work with courage, manliness, patience and trust in God, victory is yours. (On the other hand) If we become confounded, tired, frightened, terrified or silent, you should know that nothing remains in the world for your nation, country ~~and~~ religion but evil and ignominy. There remain only three months. *There was time* in India when this Government used to ridicule the scheme of Non-co-operation. Lord Chelmsford was a great Viceroy (indeed). Many Viceroys came to India but he considered himself to be the best of all wise Viceroys. Still during his six years regime *he did or said nothing* which might prove his wisdom. He said that the

APPENDIX 'B'

Non-co-operation movement had died in India. The movement was ridiculed. We said nothing and (only) recited for him a couplet by an old master poet:—

"From abusing you have proceeded to making faces. Your tongue is already spoiled and that should be sufficient; now beware, your mouth is going to be spoiled (deformed)".

Well: It was an absurd and foolish scheme. But to-day the Government no more ridicules it and has turned its attention towards it. Three or four months since there is no oppression or perfidy which is left undone in India. The use of section 144 is known to all. Respectable and godly persons that have no concern with the world have been charged with all possible accusation. Our *Ulema, Pandits, Shastrias* and workers were bound over under sections 107 and 108 which are meant for *badmashes*. Brothers: Now India has passed through the test and I say to you all and particularly to this Government that today these people from among us whom you considered to be weak and whom you put to a test have not displayed any fear of jail or the gallows. The people of India were weak and cowardly. We had lost all our courage on account of our slavery for the last 150 years. But today it is either on account of placing our trust in God or it is His miracle of grace that the people of India, consisting of 32 crores of cowardly persons, have proved in India this day to be good and brave men (Amen).

I say plainly, and I am not at all afraid of saying that the time for test is approaching. Either this Government will send our leading men to jail or some will be hanged, *and for myself I would say that my throat is tired of speaking loudly and now I wish to deliver such a speech from this throat which will be unanswerable in the whole of India.* That speech will not be delivered by tongue but by a jet of blood. The day on which Mahatma Gandhi's neck will be stained with blood, that will be the day of victory for the country. When our blood and the blood of Maulana Abdul Bari, Abdul Kalam Azad, Shankar Acharya and sister Sarojini Naidu will be shed in the path of God and of the country, you should know that blood will be so powerful as *to wash away altogether* on that day the nation in India which is hostile

TRIAL OF ALI BROTHERS & OTHERS.

towards Islam, religion and country. There will remain no particle of that nation in India. This is a plain matter, and I say to Government and this is my faith.

Brothers:—We all believed in material (lit, worldly) power. We believed in cannons, guns and big generals. But to-day in Great War it has been proved that God had to perform a miracle and had to show his might. In the Great war the powerful nation, i. e. the Government who taught fighting to the world and who during the course of years of fight were not even once defeated by the English, all of a sudden got a defeat. It was a miracle and God had to show how he can render cannons, guns and powerful nations useless. He wished to teach a lesson to the world that the people should not rely upon cannons and guns but should trust in Him. Today the English ought to have thanked Indians who saved them from death. (The Indians) helped them with money, men, youths, sons, brothers and fathers. Lakhs of women became widows. Many persons became houseless. They (the English) ought to have rewarded Indians for all these (services). (They ought to have said to Mussalmans):—"Moslem brothers, we repent and are very sorry that we entered into a war with your Caliph. We repent for the future. These *Holy Places* are yours. *You may retain full control over them*". They ought to have said to Hindus:—Indian brothers, you saved us, Come on, today we grant you Swaraj which is your right". But instead of being thankful and grateful to India and instead of bowing their heads before God and expressing their hearty thankfulness and obligations to God, this Government said that both (Hindus and Muslims) have spoiled their brains, and the war has put wind into their heads. "Let us take away pride from India", it said. This was the decision of Lord Chelmsford and his Government.

During the days of martial law when Mr. Andrews went to Simla, Lord Chelmsford said to him:—"Andrews! What sort of an Englishmen are you? I am really surprised to see that an English lady, Miss Sherwood, is beaten by Indians and you are not at all moved. We want to teach Indians, the Hindus and Muslims, a lesson that for the next 50 years no Indian—Hindus, Muslims, Sikhs, Parsis or Jains, may have the courage to speak to an Englishman with lifted eyes". This was the intention of the Government. But this was not acceptable to

APPENDIX 'B'

God. Through this oppression he bestowed upon Indians such a power and gave us such a strength that today we claim that there is not a single Englishman in India who can talk with us eye to eye.

Where are your Governors, Collectors and Commissioners? Then, *pointing to the police officers present in the meeting*, the speaker said:—
“They are our brothers: Why should we quarrel with them”?

Brothers and Sisters: This work was acceptable to God and has been done. Today we tell you and we inform the Government that it may make ready all the guns and aeroplanes, (and it) may send for warships and poisonous gases from England against India. India has made a determination. I inform the Government before my Hindu and Muslim brothers and especially before my sisters (because a man after making a promise before ladies you cannot deviate from it lest they might turn him out by beating with shoes and saying that he has become shameless) that India has made the determination that even if every child may have to perish or be destroyed, if it pleases God, he will never crawl on his belly in future. You (to Government) may kill or do what you like, India is determined not to allow that our little children of seven or eight years of age may be stripped naked, tied to a tripod, and caned on the buttocks, and when they become senseless they may be brought to consciousness by administering medicine and sprinkling water over them to be caned again. India will not let her children be beaten in future. Let us see which nation can beat them. Another thing I would say, through my brothers, to those who are in Government service. It is that Bosworth Smith, the Deputy Commissioner of Gujranwalla a brave fellow who put up at the Manniawala Dak Bungalow, sent for all the males there. When he came to know that they all (the men of the village) had come, this brave man with a whip in his hand rode on a horse to the village. There he ordered all the females of the village to be called. (Pointing to the reporters he said “Take down, take down carefully”). All the women of the village were sent for, and consequently the Sikh, Hindu and Muslim women came and as India still has some feeling of modesty and shame left in her, so these women drew a veil over their faces. Then this man (Bosworth Smith) while on horseback and holding the whip, says: “O bitches, you remained in your beds with your husbands and you did not say to them that they should not rebel against the Government. Now

TRIAL OF ALI BROTHERS & OTHERS.

you have come drawing veils on your faces. Unveil your faces". (hissing and excitement.) "I will not only make you remove your veils (but) our police will just come and they will remove your skirts." Brothers: Was this not the disgrace of our own sisters? *Was it disgrace of only those brothers who were their husbands? Is it not disgrace of those of our brethren who are in Government Service? I also was a Government servant.* Bosworth Smith was under the impression that the Indians in the police (have become so shameless) that they would not even refuse to obey his orders for raising the skirts of their mothers and sisters. Today I want to tell the Government that this is what we have to say that let the world be turned from this side to the other we (cannot and will not) bear this impudence that the veils of our sisters be removed or their skirts raised. Then our India will sacrifice her life and property and will efface this Government from the world. (If God pleases. Excitement). Brothers: I have a sore in my heart on account of India. (Couplet):—"The wound (inflicted on my heart) by your innumerable oppressions exceeds the limit. Neither I want them to be counted, nor does the heart itself count them". Our account with you (to Government) is settled. You may do what you please against us and we will do what we please for the sake of our religion and country. (Amen). These were the things I had to say.

What should I say to those Mussalmans in regard to the Holy Places? Oh Muslims! Oh unfortunate Muslims! Oh you the desecrators of the name of God and his Prophet! May my mother, wife and daughters be sacrificed for God and his Prophet? May the mothers and the sisters of all Muslims be sacrificed! I would not tolerate the insult of any encroachment even on an inch of the Holy Places of Islam. I have to say only this much:—"Vacate the Holy Places; decide the Khilafat question; restore to the Caliph of the Prophet his former power and give justice to the Punjab. If you are ready to do this, India would give you one more chance. Otherwise, listen! Either you will remain in India or we will." (Excitement, Allah-O-Akbar, cheers) "The last stage of the struggle for us is an intention to make war. I am prepared to go to jail, and die."

Brothers and Sisters! If you talk of the Khilafat and Swaraj, and if you talk of justice for the Punjab, then decide once for all whether you would be prepared to sacrifice your life and property or

not. (We are ready. Excitement) It is any easy thing for one to express his zeal in a gathering of some ten or twenty thousand men. But think of the time when you will be all alone, when hundreds of regiments of European soldiers will be there to oppose you, when the flesh of your body will be torn, when you will be locked up in prison, and when you will be induced and tempted. Tell me what would be your answer then when you will be alone and the enemy will be formidable? Tell me, will you (under such circumstances be willing to) sacrifice your life and property for India? (Audience: "Certainly we will"). I have some doubt about it. (Pointing to the policemen present in the pandal, the speaker said):—Our brothers in the police (also) do not believe this. They said that they (audience) never act up to what they say. God grant that tomorrow they (police officers) also join us and say that they will sacrifice their life and property and will curse this Government. If you do this it would be a declaration of war on our part. We have already declared war. This requires materials. Brothers, (some of) you are business men, (some of) you are zamindars, and (some of) you are cultivators. You know that people do your work with diligence. You do your work at the right time. You should spend all your strength in completing this task. I tell you that it is India's good luck that the leader of all the Indian communities (lit. armies)—the Hindus, the Mussalmans, the Sikhs, the Parsis and the Jains is a person so wise and so brave that under him, if it pleases God success is sure and certain. Therefore, brothers, decide that you will obey the behests of Mahatma Gandhi with life and property. (The audience said: "We will. Mahatma Gandhi-ki-Jai").

The Congress money is completed. Continue to subscribe to the Congress funds. Muslims! You should contribute your share to Congress and Swaraj funds without fail. If you have to give one rupee in charity, contribute twelve annas out of it to the Khilafat and four annas to the Swaraj funds. Hindu brothers! If you have to give a rupee in charity, contribute from 14 to 15 annas of it to the Tilak Swaraj Fund but (please) do give one anna to the Khilafat Fund. Even if you may not give, may God do good to you. But Muslims, it is your duty to collect (the required) 40 lakhs as soon as you can. The Khilafat receipts are ready. Honest men have been employed for

TRIAL OF ALI BROTHERS & OTHERS.

checking the accounts. You should also secure one crore of members subscribing four annas each, so that within (the next) two months we may have all (we need), men and money. Brothers, this is all I had to say to you. This is not the time for idle talk. I have become tired. Now I hate speeches. This is not a dancing part, a theatre or a cinema, that we may cry loudly and some one may speak well and the other badly, and you may cry "Jai" etc, and walk away. Brothers, this is the time for practical work. I would say to my Muslim brothers that relying on God they should stand up and should do three things First, friendship among the Hindu and Muslim brothers, do all you can for the sake of your Hindu brothers; and Hindu brothers, do all you can for the Mussalmans. I would say to the Hindus that they should trust us in regard to the cow question. They should know that so long as this Government exists we are helpless, but the day God grants us Swaraj we will settle the cow question in a way that will give them no cause of complaint (entire satisfaction). (Exitement, Gandhi-ki-Jai). (Shaukatali-ki-Jai).

Note:—At the time a silver necklace said to have been sent by the Mussalmans of Matiari was presented.

My Hindu brothers, you have kept patience for the last 150 years. Be patient for a little time more. The time is approaching (when the cow question will be settled once for all). This is not the time for quarrelling among ourselves. The Bakri Id (day) is approaching. I inform my Hindu and Muslim brothers that hundreds of Maulvis will be deputed by the Government (for preaching on behalf of Government). Hundreds of Deputy Collectors, who have been bought for the salaries they get will be deputed; the members of Councils, Raja Sahib of Mahmudabad and Mr. Chintamani, will be deputed; and good many Hindus, Muslims, Pandits and Shastrias, will be deputed. (It is just possible that Hindus may find beef in their temples, and the Muslims slaughtered pigs in their mosques. The one will be called the doing of the Mussalmans, while the other the doing of the Hindus. But you should be ready to endure all this. Brothers, if you have a desire for Swaraj, and if you want to secure justice for the Khilafat and the Punjab, then take courage and (decide) that whether the world may turn from one corner to the other, the Hindus and Muslims will not fight with one another until they have attained Swaraj. Look here brothers, this is the most difficult problem before you.

APPENDIX 'B'

Note:—As the collection of subscriptions commenced, the speaker finished the speech leaving the sentence incomplete. In the last portion of his speech the speaker exhorted Muslims to do three things, but he mentioned only one, i.e. Hindu-Muslim unity, and forgot to mention the remaining two.

True Translation,
Sd. Mahomedshah
D. S. P.
Thar and Parker.

Ex. No. 16. It is translation of the same speech as taken down by Lakht Hussain in Ex. 15, but it is taken down by Sub Inspector Shah Bahadur (compiler.)

Ex. No. 17.

It is the same as L. C. Ex. 9th and 27th given in appendix 'A' (Compiler.)

Ex. No. 18.

It is the same as L. C. Ex. No. 56 corresponding to S. C. Ex. No. 49 in Appendix 'A' (Compiler.)

Ex. No. 20.

Notes in Marahti of Urdu speech of Mr. Shaukat Ali taken down by Narain Ganesh Joshi at Bhagalkot on 6th August 1921.

Ex. No. 21.

Translation of the speech of Mr. Shaukat Ali in a meeting at Bhagalkot on 6th August 1921, by Inspector Johsi of Poona.

Shaukat Ali in Urdu said:—"My dear Hindu and Mahomedan brothers and sisters, I heartily thank you for the honour you have done by calling me with affection and spirit. I am sorry that my elder brother Lala Lajpatrai had immediately to go to Bijapur. From thence he is going to Bombay at night. Brothers and sisters, you should not be sorry because he has not come. To-day a war is going on with a powerful enemy. We are weak and our workers are few. Hence everyone of us who receives orders to go singly or in a batch of

TRIAL OF ALI BROTHERS & OTHERS.

two we have to go. We have to go all over India. Besides now bullets are showered by this Government without any cause. Therefore it is necessary for us to awaken the whole of India to be prepared to receive the bullets and thus by receiving the bullets to get Swaraj. Mahatma Gandhi and my younger brother Mahomed Ali are both going to Aligarah, Lucknow, Hindustan and Bihar. On going there they will give out the order of God. The leader of Hindus and Muslims both and (the would be president) of the would-be-republic of India..... Mahatma Gandhi.....ordered Lala Lajpatrai that we should go to Dharwar and advise the people there to be bold. I had told the people of Bijapur and Bagalkot that I would come to serve them. Accordingly I have come to serve. Brothers and sisters, you have referred in the address to the Hindu Raj you had in this (part of the) country. After that God granted the sovereignty of this beautiful land to the Mahomedans. Those people lived in India and behaved like brothers towards the Hindus. After that a hero named Shivaji was born in your land. He acquired suzerainty for the Hindus in this land. The Kingdom either of the Nawab of Bijapur or Shiwaji was the kingdom of the people of India. It was of the Hindus or Mahomedans. To-day owing to the displeasure of God and our ill-fate we are not ruled either by the Hindus or Mahomedans. Both of them are slaves. To-day we are ruled by people from over 7000 miles. The sorrows and troubles we have suffered in this rule of slavery for 150 years have made a wound in our hearts. The Hindus and Mahomedans have determined to save their religion, country and the reputation of their mothers and sisters and wives. This Government should either give us justice in the Punjab (affairs) Khilafat (questions) and Swaraj or leave this country. Mahatma Gandhi promises us that this Government would certainly grant us Swaraj by the 1st of October if we worked with complete courage and valour and made sacrifice. But if they have wind in their heads and God does not give them sense and they would not do our work, then the whole country has resolved to hoist the banner of the independence of India and Indian Republic in the ensuing Congress at Ahmedabad. (Cheers). Brothers and sisters there was a Viceroy here. He has since left this country. His name is Lord Chelmsford. He had much confidence in his wisdom. But he had so much wisdom that he did not do a single act or speak like a wise man. He had said as regards Mahatma Gandhi and our non-violent Non-co-

APPENDIX "E"

operation that it was the most foolish way of all the most foolish methods. He was laughing at us. He was ridiculing us. They were calling us fools. I ask them to-day what is the state of our demands after one year. Whether what we say is right or whether what they say is right. What do you think? To-day they are trembling with fear. To-day they cannot think of anything else than oppression, jails, prosecutions, hanging and firing. Brothers Koran Shariff is our Holy Book. It contains the order of God. The God has written in Holy Book of our religion that the thing which He wishes to destroy, that when He wants to ruin a nation none else would obstruct Him.....At that time God puts a seal on their ears and minds. He then begins to see things in quite the contrary way. In the Punjab bullets were fired in the Jallianwala Bagh on poor inoffensive people. At that time their object was to make the people of India afraid. Mr. Andrews, our brother, is an Englishman, yet he intends well of India. To him Lord Chelmsford said "Mr. Andrews, what sort of an Englishman you are. They have troubled Miss Sherwood in this way and therefore we will punish them in such a way that for the next 50 years to come no Indian would dare to lift his eyes towards a European." There is a proverb in English that man proposes and God disposes. Lord Chelmsford intended that after those punishments.....and for many years we would not look above. But we today say that the situation in India has become such that the Englishmen in the whole of India have not the power to stare at us. It is one year and 8 months since Mahatma Gandhi and myself began to tour all over India. At every place Government persons are present to note down and report our speeches. During this one year and 18 months i.e. 30 months either of us have not seen a single Englishman's face in the meetings. I have heard that there is a great Tismakhan (autocrat) as Collector in Bijapur. His name is Mr. Henderson. He saw a Gandhi Cap and became angry. I think if his disease continues, if he got angry at the sight of Gandhi Cap, within one month's time he will have to go to a lunatic asylum in India. Because Congress has directed all Hindoos, Muslims, Sikhs, Jains, Parsis, Israels, Christians, Lingayats, non-Brahmins and Brahmins in India to throw away foreign cloth as if it were poison, or serpent and scorpion and to wear Khadi cloth. Then alone you will be able to liberate the country. I hope that after I leave this meeting, my Hindoo and Mahomedans brothers, many of whom are

TRIAL OF ALI BROTHERS & OTHERS.

wearing foreign turbans and caps would throw them away. I hope they will give them to me. (People from the audience threw away on the platform foreign caps, turbans, coats, shirts etc). Brothers I will finish in two minutes. It is very hot now and I do not wish to trouble you now. I want to tell you two more things. I am very sorry to hear that in this part of the country there is a feud between the Brahmins and non-Brahmins. I am a Mohomedan. I am a non-Brahmin according to my religion and therefore I have no special affection for the Brahmins.* But in justice to speak the truth, I would say that the present awakening in India owes a very great share to the Brahmin leader Lokmanaya Tilak. He was the leader of Indians, all Brahmins and non-Brahmins followed him. Today all the great workers in India are almost all non-Brahmins, C. R. Das is not a Brahmin. Moulana Abdul Kalam Azad is not a Brahmin. To-day all Brahmins and non-Brahmins are following Mahatma Gandhi. I desire to tell a word very humbly and meekly to my Lingayat and other non-Brahmin brothers. They should certainly fight for their rights. But they should ask their rights from their contrymen, from the Congress, the Muslim League, but they should not ask for them from another people, the Englishmen. Today they might be under the mistaken impression that the Englishmen are their great friends, that the English are their admirers. But that is not so. The Englishmen would cheat them. The Englishmen are very wise. Ten years ago the British Government did not care for the Lingayats and non-Brahmins in India. They were very much in love with the Mahomedans of India. The council memberships were for the Mahomedans. They were giving big donations for schools and charities to the Mahomedans. Power was for the Mahomedans. On many occasions they showed great affection for the Mahomedans. Much sympathy was shown; our people the Mahomedans were simpletons. They were straight forward. We had no idea to what poison this affection continued.

Brothers! in 10 years by showing false affection for us they have inflicted on us such a great wound that in the whole world if there is any enemy of the Mahomedans and our holy religion it is the Englishmen. (Cheers). To-day the Brahmins are not our enemies. The Non-Brahmins are not our enemies. The Sikhs and Jains are not our enemies to-day. The Christians and Israels are not our

APPENDIX 'B'

enemies to-day. Russia and France are not our enemies to-day. America, Japan, China, Italy are not our enemies. Germany is not, nor is Austria. Ask yourself in whose possession are our Holy Places to-day, and who is slaying our Islam religion. A Faithless Shariff has been enthroned at Mecca and other places. These Englishmen have enthroned him. Who have taken possession of Basra and Bagdad? These Englishmen. Who are at Palestine and Baitul to-day? These Englishmen. At Karbala, Najaf, Ashraff, and other Holy Muslim places there are these Englishmen. Who has imprisoned our Khalifa in Constantinople? These Englishmen. Today the heroes, the Turkish heroes are fighting on the side of Kamal. Who have induced the Greeks there? These very men. We have learnt that the poisonous gases etc. that reached there, were from the country of the Englishmen and carried there in their ships. This has been learnt during the last 15 days. I ask my brothers and the Mamlatdar and police officers who are writing here whether after these things they think that any Mahomedan would give his friendship to this Government. During our friendship we gave them money, men and we fought against Mahomedans. We have received the reward. Lingayat brothers you may cut the throats of your brothers. In the end you would get the same reward. This was an outside affair. What have we to do with the affairs of Arabia and Turkey? But in the Punjab nothing less happened. I did not feel of firing at the 30 or 35 thousand people that had assembled like you in Jallianwala Bagh and people were killed there. I do not feel any sorrow for their death. Death is very cheap in India. Plague, Cholera, Influenza, etc. bring about a lot of deaths. There is no value for death in India. But the thing for which we feel, which has insulted the whole of India, is that our brothers were forced to crawl by threatening them by the show of guns. There (the people) had not done much wrong. There a woman had abused our Indians and they had beaten her. All of us had said that they had done a bad thing. Our students were made to go 16 miles to salute the Union Jack in the hot sun of June of Lahore. They were forcibly taken there. Young boys of 8 or 9 years were made naked and were caned on their buttocks. When the boys became senseless they were given medicine and when they came to their senses.....the

TRIAL OF ALL BROTHERS & OTHERS.

remaining strokes were let. Not only that, further than that happened. The Deputy Commissioner of Gujranwala called all the Hindus and Mahomedans to his Bungalow and when he learnt that there was no male person in the village besides the Hindu, Mahomedan and Sikh women, he rode on horseback to the village. On seeing him the women covered their faces by veils. He told them to remove their veils. Further he said that he would not only remove their veils but afterwards he would send the policemen who would remove their gowns. Brothers and sisters death is preferable to us for the sake of the reputation of India, for the reputation of Hindus and Mahomedans, for the reputation of the whole country, to removing the gowns of our mothers and sisters to this insult. I shall very humbly tell my police brethren and other Government officers who are present here that they had so much confidence in the police that if the police were ordered to remove the gowns of their sisters those degraded people would do it for the sake of the pay of Rs. 10/-. Brothers we are of the blood, live in the same atmosphere, have been born in the same land and will die in the same land. Brothers, are we to shoot each other? Brothers I pray God to give you courage. You should once take courage and stand up with faith in God. You should stand up for the country and begin to work. I will also request my brothers with folded hands to forgive his brother the Deputy Magistrate, Mamlatdar, Police Inspector or other officer who would oppress them. It is not his fault, he is weak. He behaves according to the orders of his English superiors. If you get angry do not be so for his weakness but for the Englishmen. It is enough. Brothers I have told you what I wanted to tell you. I hope that by the grace of God we will be all heroes. Be prepared to sacrifice your property, reputation and all for the country. Pray to God to be kind to remove all these things and to free our religion and country. I want to tell one thing more to my Mahomedan brethren. In the Majid I will tell plain facts. If the Hindus would make one sacrifice the Mahomedans would have to make one more for their khilafat. Brothers, being Mahomedans the reciters of the Kalmas, the followers of Koran, are you afraid?

The Mahomedan, who is afraid has no faith. The Faith of the Mahomedan is that there is one God, that there is no other power in

APPENDIX 'B'

the world besides that of God. God is the slave of person who is afraid of him; he does not care for small or great emperors. I hope my Hindu and Mahomedan brothers will allow me to inform Government on behalf of Bagalkot that they may punish us, send us to jail, hang us, shoot us, but so long as there is Unity between the Hindus and Mahomadens.....would not give up Khilafat, Punjab and Swaraj. I pray for the welfare of all brothers and sisters for having called me very affectionately. I feel that I have a home in Bagalkot. (Cheers).

True copy of Ex. No. 21.

Sd. M. W. JOSHI,
Acting Inspector of Police, Poona,

Ex. No. 23.

Marahti notes of speech of Mr. Shaukat Ali made on 6th August 1921 and taken down by Trimtah at Bhagalkot.

Compiler).

Ex. No. 24.

It is translation of Ex. No. 23 and its purport is the same as of Ex. No. 21.

(Compiler).

APPENDIX 'C'

Exhibits in the

Case of

CROWN

Vs.

MOULANA MAHOMED ALI

Under

Section 124-A I. P. C.

APPENDIX 'C'

Case No. 36 of 1921.

Exhibit No. 7.

(Speech by Maulana Mahomedali at the time of the end of the All India Khilafat Conference Karachi, on the 10th July 1921.)

My dear hindu brethren and sisters: Ulema and Sheikhs, Now I part from you. What I had to say to you I have already said. At the occasion of my coming here I have said in the Presidential speech and have expressed my ideas in several ways. I have nothing to say. Only one thing I have to bring to your notice. This method of mine is adopted by me daily. In India this resolution has been presented many a time and many a speech has been delivered in connection therewith. This subscription which is being asked for from you, is not such as has been asked for many times in India and which may be asked for in future. I want to make every individual and child present in this meeting understand one thing. Today our movement whether it is of Swaraj or Khilafat means that it is not for some temporary business of ours. The movement of Swaraj is to make India free from Slavery. For the movement of Khilafat it would have been better if we had said that it is an attempt to save the survivors of Islam, but I know that it is the final message of Islam. This is such liquor for which a Poet has said " * * * * " ie. This is the last peg and I have to take it once for all, but nothing is better than this for us." But this is such liquor, that the God has made us to drink its last goblet, and therefore He Himself is its protector. He is aloof from our efforts. There should be no terror in your mind that the Ottoman Empire has decayed. The Persian Government may be destroyed and Afghanistan may be ruined, but my brethren God is the protector of the faith of Islam. He has sent this religion to convey His final message to the world. When He sends a great prophet for the final reform of the world, you should be certain that He is aloof and able to do without our endeavours. God is the creator of both the worlds, but there is one thing which he can not create. That is our own salvation. When this world will end and when this true maxim will be known to every one that everything is mortal, there will remain one, your God.

TRIAL OF ALI BROTHERS & OTHERS.

When it will be asked where are the Commissioner in Sind, Collector of Karachi, Viceroy Lord Reading, Lloyd George, and King George, and who is the sovereign on this day of resurrection, and when the worldly kings will be standing bare headed before the King of Kings to apologize for their sins and it will be asked from you whether or not it is true that the Prophet had conveyed the final message to you your answer will not be except "Yes". The Prophet Muhammed will say that he had conveyed the final message to you, and you will say "yes." Then the God will say that he had sent the Prophet to witness whether His message had been conveyed or not. At that time where those people will be who shirk to tell the truth. How will their sins be forgiven who do not support the "right". How will they wish the recommendation of the Prophet and how will they go to heaven? It will be asked whether they want to go to Heaven and they will say "Yes"- Do you not know it? It will be asked from you whether you know that this Ayat has been inserted in Quran "Arabic.....". Do you not think of it? Do not be sitting in this pride that you will enter the Heaven. You will have to encounter such troubles, you have never faced before. You have not been put under trial like Sobar Ayub. Every one of you has not been thrown in the dark well like Hazrat Yoosif, and sent to jail without any fault. You have not suffered from eyes day and night like Hazrat Yaqoob. You have not undergone these difficulties. You have not come across those perils which the Prophet of God had to encounter, and had to go out in the obscurity of night. Today in the world those people who say that they are in a small number and their enemies are formidable, for them it is said "Arabic.....". Do not fear. Help of God is with you. You are not yet in that condition. You came out 313 in all. You had 2 horses, and two boys of 15 or 16 years of age. Many of you had not even the swords in their hands. At such a time you fought with the enemies of Islam in which one tooth of the Prophet was lost. Afterwards the Prophet broke all his teeth. Remember, beware! The time by the Grace of God is near for our victory. When it will be asked from you about your determinations, your tongue, nose, ears, and limbs will give evidence against you for your bad deeds. With what face will you request the Prophet to recommend you?

APPENDIX 'C'

He will remind you that you were made superior to all living beings (Ashrafalmakhluqat) out of one drop of impure water. You remained in your mother's belly for nine months and shared with your mother what food she took. When you came in the world, you were supplied a fountain of milk from your mother's breast for your growth. Today you do not care for the oppressed people of Symrna and their property. When you were a baby of one day and had come out from the belly of your mother weeping, plenty of milk was supplied to you from your mother's breast. Today you claim to be learned and want to bow before others instead of God. When you were weak your father was appointed for you training, and love was created in his mind for a strange baby. And when you were a child you were given education and made a man. Now you claim yourselves to be learned. But most learned is the God. He has taught you everything and enabled you to distinguish between good and bad. This all was done. Afterwards you were married and love was created between the two hearts. Your children were born and all of you got food. You got such good food as the prophet could not have. He had to bind two stones with his belly. The water, which the grandson of the prophet and his children could not have for thirty days, was always supplied to you. The God gave you all these things, but today the faith of God is in the clutches of the enemies of Islam and the substitute of the God's Prophet is in trouble. You remember the marriages of your children at this time, and do not look to your responsibilities. The question of Khilafat, for which I have said so much is not yet ignored by its followers. If at such a time your hands and heart do not move, I ask you with what face you will seek salvation. Brethern, today there is no question for the survival of Islam, but the question is whether we deserve Hell or Heaven. The sinners like us will be turned into stones and fuel. We may like to remain for ever in the Hell, which it is difficult to get rid of after death even, but we must fear from the Government. This is your weakness. You do not even care for God. Cursed we are if we are afraid of going to jail. There is nothing in the power of the Commissioner, Collector or Lord Reading. Every thing happens by the commands of God. We may apologize or do anything else. If we are to be prosecuted, there will be thousands of arrangements for

TRIAL OF ALI BROTHERS & OTHERS.

that. This Deputy Collector, Deputy Superintendent, Governor and King are nothing before God, before whom an ant even can be respected and they can not. Brethern what we have to give or do, we have to do wisely. This is the base of our own salvation. In the war of Zahir Hazrat Farooq brought half the property of his house and put one shoe on, and thought that he would out do Hazrat Sidiq who brought everything of his, leaving nothing behind for his children. He told his wife to sweep the house lest any thing might have been left, and he be thought guilty. He even brought the broom and dirt of the house. The Prophet asked Hazrat Farooq what he had left for his children and he replied that he had made such a bargain by which he did not lose, and left his children to God. Dear friends, today you are anxious about your children and have forgotten those who are suffering for starvation at Symrna. Why should you care for your children? Are the God and the Prophet not sufficient for that? "Arabic." Is God unable to supply food to His sons? Can he not protect us? It is useless to fear from them. "Arabic." God deserves more and you should fear from him. Come, there is the question of your salvation which you have to solve. You should do everything for your salvation. Use the freedom bestowed upon you by God. God sent you here free. God had not kept any one else's burden upon your shoulders. But you have spoiled your neck which was meant for God, by outsider's slavery. Throw this burden off from your shoulders and you attain the Swaraj. Swaraj is nothing else except the sway of God and Dharam. Therefore today I want to explain what is to be done by our Hindu and Muslim brethern. When there is the question of religion there is no consideration of Governor or any one else. I want to say this thing only and nothing else. But at the time of parting I want to give you one advice. I hear that Sindhi brethern are soon excited. The sands of Sind soon digest heat and at once become cool. You are responsible for this thing. You must remember that the Mussalmans first stepped in your land, by the dust of which you are created. They told the Raja of this place plainly that he believed in elephants but they believed in God who says "Arabic.....". If I find time I shall explain this thing in some meeting. I thank Secretary Muhammad Khan for his zealous and ardent work and hope that he will go on.

APPENDIX 'C'

doing so up to the end. I also thank my revered friend Maulana Mahammad Sidiq, Chairman Reception Committee, and Dr. Haji who has made arrangements for our boarding. Besides I am thankful to the commander of the volunteers, for his volunteers are doing a great deal. You will gain nothing by touching the feet of Shaukat Ali and Mahammad Ali. Be ready so that there may be peace in the country and there should be no kind of disturbance. Ireland has not succeeded by murder and bloodshed. The volunteers should remove liquor drinking. This means Swaraj, nay, our own Government. Thanking you from the core of my heart, now I part from you. Please do no rest even for a moment to attain Swaraj during the few remaining months. I pray to God that he may be pleased to make our efforts successful. What is the use of ours if we can not do anything "Verse....." i.e. "What has happened is by your will, and what will happen, will also be according to your pleasure."

Sd. SHAN BAHADUR KHAN,
S. I., C. I. D.
Reporter. U.P.

True Translation.
Sd. RAMKRISHNEN,
Urdu Translator. Dated, 27-10-1921,

Exhibit No. 12.

Presidential Address delivered by Mr. Mahomed Ali at the All India Khilafat Conference, Karachi, on the evening of the 8th July 1921.

Moulana Mahomed Sadik Sahib, (my) brothers in Faith and Countrymen! I am greatly indebted to you all and the people of Karachi for giving us so magnificent a reception; and it is no wonder if bigger men than ourselves will envy it. I am thankful to you for the honour at this time particularly because so far as our enemies, not only our enemies but the enemies of our coun-

TRIAL OF ALI BROTHERS & OTHERS.

try, our religion and nation are concerned, we are already gone from this mortal world. We are the men who have, fearing the threat of being sent to Government Jails, apologised to Government with hands clasped, after falling on the knees and rubbing the ground with the nose. We have already once gone to the jail of the Sarker. And our hearts were so full of its horrors that we were quite prepared to give up our religion, to renounce the honour of our country, the honour of our family and our own self respect, and (consequently we) apologised to Government. So far as the Official Newspapers and I call (lit. enumerate all those newspapers official which are helping the Government, which are helping the British Government, and which are aiding this present system of Government with which we have at present completely non-co-operated) are concerned we are altogether doomed, (for) we can have no opportunity to open our lips. No body in India is willing to listen to us and no one's heart will be moved by what we say. But it is really wonderful that since the time our statement was published, I have presided over the Broach Khilafat Conference. Afterwards we went (lit. came) to Bombay and there too, we were requested, many a time, to attend meetings and speak there. Apparently the people were ready to listen to us even then. After this we went to Poona and we were conducted in a procession. When we went to Gokak we were well received there. On going to Belgaum we were presented with an address from the Municipality. In addition to all these if any further proof was needed it was given by (the people of) Sind. And notwithstanding the fact that we (lit. our existance) were done up, we were not living in this mortal world, you, brothers and sisters of Sind, received us in such a way that we were convinced—if ever we doubted—that you were prepared to listen to us in the same way as heretofore: (verse follows:—

“The message which was delivered to Hussain, son of Ali,

I am glad (to say) that the same message of Death is for me.” But a great secret underlies it which I want to tell you in the beginning and I shall conclude my speech as well by (alluding to) that very secret. Just as my verse has just been recited to you Akhtar Ali, my companion, I again repeat it:—

"O tyrant, thy tyranny is no doubt general,

Yet this method of torture is specially devised for me."

(In the same way) the Government does not feel anxious to humble any one else so much as it desires to humiliate us. And the reason is that we, both the brothers, and Mahatma Gandhi are together placing the Hindu-Muslim Unity before the Government, the Country and the whole world. And this is the remedy (lit. the prescription) in which lies the salvation (lit. life) of the Hindus as well as the Mussalman and the death of the present system of Government. Our Government is just like a grocer who has in his possession only one bottle of medicine which contains medicine for fever, medicine for cough, medicine for plague, medicine for influenza, medicine for killing rats, medicine for killing cats, medicine for killing as well as for bringing to life. And that (remedy) was setting the Hindus against the Mussalmans (and vice versa). The Secretary of State for India himself and the Viceroy himself have also confessed in their Montagu-Chelmsford Report about reforms that this is the method which has been tried in India up till now. This is the reason why the Indian newspapers (perhaps English newspapers) and particularly the "Daily Telegraph" and the "Morning Post", which are untiringly trying to uphold the present system of Government, are continuously writing that the alliance between the Ali Brothers and Gandhi is an unnatural and unscrupulous alliance. The alliance between the Hindus and the Mussalmans who belong to the same land, is termed unnatural, while the Alliance between the Englishmen and Indians is termed natural! The alliance of (a) master with (his) slaves is called natural, i.e. the alliance between these who get thousands of Rupees as their pay and work very little and these bretheren of ours (referring to the C.I.D. reporters) who, literally from morning to evening are compelled to do their work like slaves and get only a pittance (lit. bread of barley). Such an Alliance should (indeed) be called natural! The alliance of the Generals, Captains, Commanders and Commander in Chief of the British Army with a poor soldier who, with Rs. 11/- as his pay, goes about with his life on the very palm of his hand (and who) gave up his religion in the last War,

TRIAL OF ALL BROTHERS & OTHERS.

their alliance should be considered natural, while the alliance between the inhabitants of this land should be regarded as unnatural! As we both the Brothers and Gandhi are representing this unity (lit. the specimen of Unity) and it will be our endeavour up to the last moment to strengthen this unity while maintaining our religion (therefore) every effort will be made by (lit. on behalf of) Government with a view to sow the seed of disunion between us and Mahatma Gandhi. With regard to our statement, i.e. with regard to our apology, it was tendered to you and to those who feared that we would spread violence in India. I am to-day disclosing the name before you all that apology was offered personally to Pundit Madan Mohan Malaviya himself, because he feared that riots and bloodshed would ensue in India. The pity is that that the same effect was not produced on the minds of our brothers, Malaviyaji and Sapru as we desired to produce (by issuing the necessary statement.) But we have done our duty (thereby). We are now wholly absolved of our duty before God, the prophet and the whole world. Whether they accept our apology or not, we had clearly written in our statement that we publicly express our regret for the harshness of some words and sentences in our speeches. The Government did not send any of our speeches to us of their own accord so that we might apologise to it. When we enquired from the Viceroy as to which of our speeches were objectionable, (lit. about which there is a complaint) he refused to send them to us, because those speeches were written by our own men (lit. by brothers like us)—here the speaker pointed to the C.I.D. reporters. But it is not known whether our own brothers are in fault or the Government which gets them translated or corrects them. Amir was a well known poet of Lucknow. Sauda (another poet) wrote a satire against him. And what satire could he write against a respectable man like Amir. In his satire Sauda writes that a calligrapher came to him and began his tale of woe. He said, "We are calligraphers; we toil hard day and night and then get our pittance. But instead of being pleased with us for spreading knowledge in return for a small remuneration (lit. fee) the people calumniate us, particularly when the diwan (a collection of poems) of a poet comes to us for printing and we, calligraphers, publish it we are caluminated, for (here follows a verse):—

APPENDIX 'A'

"Every leaf contains some correction by Mir" (i.e. Amir).
People say; "The mistake is caligraphers."

I tender my apology to my brothers, the reporters. I thought that it was perhaps the favour of our brother Lakht-e-Hussain (a reporter, C. I. D., U. P., present here) or other men like him that some sentences of ours which were sent to us by Malviji, were such as we had never uttered nor were they present in our mind (then). However I apologise (to you as to why this entered into my mind at all that:—

"Every leaf contains some correction by Mir (i.e. Amir).

People say, "The Mistake is caligraphers."

The translation of speech is such that one should be a sacrifice to it whoever may have translated it, the little cuttings which he showed us were such that after their perusal we totally refused to admit that they encouraged or induced any violence, harshness, hand to hand fight, disturbance (lit. trial of strength). The statement in which the Viceroy had no right to make changes and alterations and which was drafted (lit. prepared) by our brother and guide Gandhiji was divided into two parts. One (of the two parts) dealt with an expression of regret to you and to Pandit Madan Mohan Malavia, provided he harboured any fears of blood shed. But the people have seen that blood was shed at Dharwar, at Aligarh, at Rai Barelli, and at the Jallianwallah (Bagh) which is known to all, (we wrote therein that) we tendered our apology if there were any violence in our speeches. But we shall for ever stick to the assurance that we have given, namely, as long as our religion does not compell us to draw the sword, we shall abstain from bloodshed. We are ready to shed our blood in the path of God (and) for the cause of the country (and) religion. But as long as Islam does not give us clear instructions to draw the sword as was given to the people of Badr (Here the speaker read some verses from the Quran which deal with the injunctions to fight at Badr) so long as we do not receive that commandment we shall keep the sword within its sheath. I have not got a knife much less a sword. I have given up taking a walking stick

TRIAL OF ALI BROTHERS & OTHERS.

even) in my hand lest an Englishman might get nervous (Laughter and cries of Allah-o-Akhbar). But our assurance which it was our duty to give, is given to every person who fears bloodshed. If Madan Mohan Malivla is afraid of bloodshed then our assurance is meant for him as well. "Public assurance is given to all who may require it." I myself enquired from Mahatmaji as to whether he included Government in it. He said "Undoubtedly." And the reason is quite obvious. We are going and if any nervous and frightened man tells you that he is afraid of you and that you will beat him, then (in reply) we assure him saying that we have not got any stick in our hands, that we do not entertain any such intention, and that our work is spoiled by beating. In spite of it, (i.e. our assurance) he urges that he is still afraid of us and that we should take an oath then we gladly take (lit. swear it). If our Government is so much afraid of us, then we on our part give the same solemn word to Government also. But it is not an apology. Nor do we tender our apology to such a Government whose hands still bear the stains of the blood of Jallianwallah Bagh, which has still to repent before God's people (lit. Creation) and God for making human-beings crawl on their bellies (cries of Allah-o-Akhbar).

When (they) are questioned about our promises they say that as long as we stick to our promise, as long as we remain sincere, they will not prosecute us. Our sincerity is already known to the brothers and sisters of our country. To-day Lord Reading's sincerity is being tested after the sincerity of a great man who is at present in his country and who in political matters is superior to King George even, i.e. Lloyd George has been tested. It is now clear to one and all (lit. every person) what a great liar and deceiver he is! What necessity is there that we should go to him and tell him that we are sincere? Do we stand in need of swearing by the Quran in his presence, in the presence of a person who made one thousand promises but fulfilled none (cries of Allah-o-Akbar). Today no Englishman has any right to enquire from us whether or not we shall stick to our promise until and unless those promises are fulfilled which were given to the whole world by Lloyd George and which have

all been falsified; until and unless these promises are fulfilled which were made by Lord Hardinge during the war. Those promises were broken for the sake of (in the case of) Mecca, for the sake of (in respect of) Baghdad and for the sake of (in respect of) Smyrna. (In short) there are no such promises made in regard to the holy places which have not been broken by this nation. This was a clear deception on the Mussalmans. After this we are asked whether we shall stick to our promises. After this we are threatened with a prosecution. Gentlemen, I assure you that it was never Lord Reading's intention to prosecute us. Is is a lie (to say) that Lord Reading desired to try us in a court of law (lit. to prosecute us). To decide in the Council that prosecution is possible and that it should be proceeded with, are things with which every diplomat is familiar. (Two or three words could not be deciphered). Lord Reading knew that (by prosecuting us) he would (unnecessarily) pick up a quarrel with India just as Lord Chelmsford did. And Lord Reading is not prepared for this fight. We too do not want to quarrel with the Government. We ourselves desire that all things should be settled in an amicable and friendly way. On us rests the responsibility of 30 crores of Indians. Why is it that Lord Reading has come to India? After his five years' term of office expires (lit. if his rule lasted for five years) then he will have nothing to do with India. But we are born of Indian soil (and) we should ultimately be buried beneath the Indian soil. If the responsibility of India does not rest on our shoulders, will it then rest upon Lord Chelmsford's shoulders or those of Lord Reading? Whatever responsibility they had has been demonstrated by Sir Michael O'Dwyer and General Dyer. (To) those who are today teaching the lesson of "Forgive and forget" (our reply is as follows:—) The day on which India forgets the Jhallanwalla Bagh, and more than that, the day when India forgets the crawling on bellies, and (lastly) the day on which India forgets the promises made to the Mussalmans in regard to the holy places of Jaziratul-Arab (i. e. the island of Arabia), I say: May God on that day cause to rise a wave from Kiamari to Calcutta and thence to Cape Comorin and the whole surface of India be sunk underneath it. To forget that is to forget our own country; to forget that is to forget our own religion, our God and our Prophet. (Cries of Allah-o-Akbar).

TRIAL OF ALL BROTHERS & OTHERS.

Forgiveness means *muaf karna*. Yes, we are prepared (to forgive). But is anyone beseeching our forgiveness? The Government was in need of our apologies only. The Government is itself desirous (lit. hungry) of obtaining apologies. When it asks anybody to forgive, then some one will forgive it. One should show the change of his heart (proving) that his heart is changed. To-day the Viceroy says before the Liberal League: "Forgive and Forget". My question is whether Government has become soft hearted. (As regards) Sir William Vincent's speech (well) I know Sir William Vincent better (lit. more) than I do Lord Reading. I know him since the time when he came to Sir Ali Imam in the capacity of Secretary. If to-day he stands up on behalf of the Civil Service (and) on behalf of Sir Michael O'Dwyer and says: "we are ashamed", then (alone) I shall think that he has asked for forgiveness. But Sir William Vincent intentionally shirks blaming them. As long as this Government gives pension to O'Dwyer out of the Indian Treasury, as long as this Government gives pension to Dyer out of the Indian Treasury, not only from this treasury but from any treasury, so long I will say that they have not forgotten anything nor have forgiven anything-and that they do not deserve that you should forget or forgive. Perhaps you know that this elder brother of mine who is sitting here with such a big stomach, was a Government servant for 17 years. You do not know that he continued to draw his pension up to the time of his internment, out of which Rs 2-14-0 were deducted as (Income) tax. But when we were transferred to the Betul Jail, just after the time when Dyer fired shots in the Jallianwalla Bagh, and we said that it was unlawful to remain in internment (and that) we should go to jail, (and) we broke the law, then (and only then) the Government stopped my brother's pension. The Government which stops Shaukat Ali's pension and which gives pension to Dyer, can have no connection with us. (cheers, enthusiasm, cries of Allahh-o-Akbar). It is not because India refuses to give £ 750 to Dyer which he is getting and no one knows more than Englishmen do that India does not hanker after (lit. is not hungry of) wealth. We have (in fact) given them so much that every vein of theirs contains our salt and that salt will remain in their veins not only for seven generations but for seventeen generations, even after their Raj (i. e. rule) in

India is over. But a person who is prepared to efface his honour by (giving) the crawling (order) in the Punjab, should be punished with a stoppage of his pension. Is the pension of a person to be continued who orders a human being, who according to the religion of Christ, an image of God, to crawl like a serpent? (The language is faulty). And the Viceroy enquires to-day as to why we rake up old ashes (lit. dig up old corpses) after two or three year. Who are our dead bodies? (They are) the dead bodies of Jallianwalla Bagh. These are the martyrs who never die. (A verse from the Qaran follows, which means:—) "Do not say that they are dead. They are dead." They are not dead but living. In fact you, who boast of this life, are dead long before death overtakes you."

My brothers: There was no necessity of refering to our apology nor is there any necessity now. I should be required to establish my honour and reputation in India anew when our honour is gone from India. ut in my bag (there was a bag hanging from the Speaker's shoulder and he referred to it) there is a document and my prayer is that it may be published in newspapers before we leave (Karachi). But I have no authority to publish it. Its real authority is in the hands of the Viceroy and Gandhi. Gandhiji has prepared it and send it to the Viceroy. Either the Viceroy should, after accepting it, publish it as a joint statement and on behalf of both, which would make clear the nature of our apology. It is another thing to deliever a speech and to boast too much about oneself after food and drinking a little at the Lord Chelmsford Club. From it, it appears how far his pestige has been lowered in India and out of India, that he taking the "Statement" to be his greatest assest (lit. wealth), to be the first fruit of the Reading Regime, says that (although) he is there hardly for two days yet he has killed both the brothers, and made them rub the grouud. This speech was delivered at a very opportune time when Mr. Shafi was the host and when he (i. e. the Viceroy) felt very happy. But the morning has dawned now. The intoxication of the night has gone and that exhilaration also is gone. Now in the light of the morning the head is feeling heavy. At such a time Mahatma Gandhi's message is going to him. If he signs it, then it will be a joint statement, otherwise Mahatma

TRIAL OF ALI BROTHERS & OTHERS.

Gandhi has said "Kindly permit me to publish my own (version of the) statement. And you may publish any statement you like. Those who believe in me will take my statement to be true. While those who have faith in you will take your statement to be true." Now I leave it to you to believe in any you like. But I do not want to break the seal which is on my lips. But I believe that whatever my brother and I did, was quite right. Similarly, I believe that whatever Mahatma Gandhi advised us to do was alright and as we acted upon it was also quite right. Mahatma Gandhi is a clear-headed (lit. possessing high intelligence) statesman. Mahatma Gandhi has not gone (to England) as Lord Chief justice of England, nor has he gone to America as special envoy. But people should rise long before dawn (lit. before the Tahajjud prayer is offered) in order to detect the mistakes of Mahatma Gandhi. (Laughter). And it is known to us that the sleep at Simla is not such as to arouse people at the Tahajjud time. (Cries of Allah-o-Akbar.

Oh my brothers and sisters, one result of Gandhiji's interviews with Lord Reading was that our statement was published throughout the world. At that time Lord Reading thought that now the non-Co-operators would come and see him and repent (lit. rub their noses). "Come into my little parlour," said the spider to the fly. When you were little children studying in a school, and if you ever read English, you must have read how a spider in the sweet tunes of David tried to catch a fly saying: "Come into my little parlour." fly had gone in but came out buzzing. The result of it (i. e. the interviews) is that all the non-co-operators refused (to have an interview with the Viceroy). rs. Naidu refuses, while Pandit Motilal Nehru does not seem prepared (to see him) and similarly there are other men (who do not want to see the Viceroy). As regards ourselves, do not ask anything. But we are so shameless that we are ready now (to go and see the Viceroy); but no one invites us. (laughter). Couplet follows:— "Although it is attended with all sorts of abuse, yet withal my name is better than I, for it is mentioned in that assembly." We have not gone to that place, yet from morning to evening they talk about both the brothers and Gandhi. When all hopes of our going to them (lit. coming) were lost, and the people according to the old usage

APPENDIX

stopped going to and bowing before the Viceroy, then it was thought that some how one or the other should be invited. Accordingly two addresses were presented, although no address had been presented by that time. One of these was given on behalf of the Liberal League of the United Provinces, whose president is our brother Dr. Sapru himself. You (already know) the Hindustani address of the League and its reply. No Association went there (to the Viceroy) on behalf of the Mussalmans. Shias did not go; Sunnis did not go; Muqallid (the name of a sect) did not go; Ghair Muqallid (the name of a sect) did not go. There was one hopeless (lit. done up) class of Qadianis. I have heard that a brother of mine also is a Qadiani. And when some one mentioned that he was the elder brother of Mahomed Ali and Shaukat Ali, the Viceroy was very much surprised (to see whether any brother of Mahomed Ali and Shaukat Ali could come to him. I have to tell you a few words from the Viceroy's reply to the address presented by the Qadianis. (At this stage the audience on the other side asked the speaker to turn his face towards them. The speaker thereupon pointed to the reporters and said:—) My address does not concern you so much as it concerns these brethren of mine so that they might despatch my message to Simla. I am sorry that we could not provide tables and chairs for them. We people have given up the (use of) chairs and tables for a long time past. (Laughter). The Collector of your district says:—"You people make the police reporters your delegates after asking for 15 rupees per head. You should give them complimentary tickets." O brothers, may that day come when the police force comes as delegates: But who is holding out this hope to-day that they will (ever) come as delegates? May the day come when the Police force sends delegates to the Congress. That day is near at hand; and my brothers (i.e. the reporters know that that day is near; and, God also knows that it is near, (and it matters not) whether Government knows it or not. But we have never said that we will make them delegates (and we have never said that) we shall send the police as delegates. But the beauty is that they ask for complimentary tickets. But brothers, what sort of compliment is that? Is it for firing shots at Rai Bareilly (that you ask for complimentary tickets)? Do you want compliment for beating persons in Sind when you come across them singly? Well

TRIAL OF ALI BROTHERS & OTHERS.

then, we will give you a pension like Dyer.

Well, we do not know how to work with doors closed. This work is very well done in Simla, or in the Foreign Office in London. For us, it is enough to work under the roof of the sky and on the floor of the earth using the latter as table and chair (lit. for us the roof of the sky the table and chair as the floor of the earth are enough). But, brothers, you refused to pay Rs. 15 out of the taxes that you are collecting for the last time (and) instead you said that you had not got the money (the language is faulty). Will you also say to-morrow: "As a child is not born in our house, prepare a child as well for us" (Noise and laughter). To-day they want tickets under section 144; and Government does not want to spend Rs. 15 per head. Rs. 120 could not have been given to us by the brothers at the rate of Rs. 15 each; but the Sahib, said: "We shall take (the tickets) under section 144". They want tickets by applying section 144. In reply I say: "Every day it is put to a new use. The legislator of the Act even did not know this that if tickets were not available, then they should be got under 144. To-morrow they will say that a child is not born to the wife hence a child should be given (lit. brought) under 144." To-day I will speak to these brothers of mine (pointing to the reporters) so that they might take it down properly. Accordingly I shall speak slowly. It is known that eight (persons) are jotting down or twenty (persons). But my prayer is that they may not be acting upon the proverb: I sing one tune, while my playing instrument produces quite a different tune." (My prayer is that) Sindhi knowing, Hindi knowing and Urdu knowing people may write in the same language. There ought to have been a good head-master for this concert here who, with a police cane in hand, should have said: "Play a good Music". What I have to say is what Lord Reading said to the Ahmadiya Qadiani Association Simla—which is a sect of Mahomedans and who went to the God of Simla and came back with a fresh inspiration—that they should feel glad because these people also had complained of their grievances in regard to Turkey—because the Indian delegation which was sent from India was not unsuccessful. The delegates who comprised this delegation were Government (delegates) namely, our brother Dr.

Ansari who is present here and Ohhotnani Miyan who is in Paris. You can enquire from them how happy they came here. This is another thing if one doctor sahib nilly-willy gives a health certificate to every man. People go to a doctor to get a medical certificate with a view to obtain pension or leave. But this doctor is queer. He gives health certificates to one and all. He gave a health certificate to the Government; and from the very next day they began to insult him, his religion and nation. But the Viceroy avers that "his efforts were not fruitless." I want to know whether the word "efforts" does or does not include (the efforts of) Maulana Abdul Bari, Dr. Kitchlew, Mahomed Ali and Shaikat Ali. They should to-day give out the names of those persons who (have) served the (cause of the) Khilafat more than those whose services the Viceroy is eulogising (lit. recognising). Who are those heroes who first of all served the Khilafat, about whom the Viceroy remarks: "Whatever efforts you did were fruitful?" Whatever efforts we have made do not seem to me to be fruitful. But the real efforts are those which are being made by our brother Mustafa Kamal Pasha—May God sharpen his sword. (Amen!) His efforts have really been fruitful. But the efforts of the Viceroy, the Secretary of State (for India) and the Government of India, or the efforts of such hirelings of theirs who are in India and who last of all say: "Yes, we also demand this same thing", but who are not prepared to give money, who are not ready to go to jail! they simply went there taking two sheets of paper in their hands and said: "We, too, demand the same thing, which these people are demanding." After this Lord Reading says:—(Here the speaker read the passage in English and then translated it into Urdu) "I do not say that whatever they demand was promised to them. This was hardly possible." Well, may God keep Lord Reading alive for some time more and may we also remain alive, then we shall show how "hardly possible" becomes "certain", because our confidence is not in the English nation but in our own strength (lit. the strength of the arm) and in the power of the heart. "Indeed the Prime Minister explained that he cannot fully express his rights but he went a very long way." (This is as reported by English reporters). The Viceroy says that the fact is

TRIAL OF ALI BROTHERS & OTHERS.

that the Prime Minister had plainly said that he could not accept everything but that he went very long way. May God not make any (other) man the like of Lloyd George. The truth is that of all the things which we demanded none has been promised to us up till now. What are our demands? One of our demand is that the holy land of the Island of Arabia the mandate of which was entrusted to us by the holy prophet at the time of his death (lit. the prophet made us the mandatory after spending his last breath), and whose mandate was asked of by Lloyd George himself, (should be entrusted to us). We said that we have been appointed its mandatory by God and (His) prophet, and that no Christians or Jews can be its mandatory. We have received this commandment: "Drive out the Jews and the Christians from the Island of Arabia." This is the mandate which is present before you (the speaker referred to the motto which was hanging in the pandal) and under whose banner I am standing here today. Has Lloyd George given you any news? Have Mr. Montague and Lord Reading who are (both) Jews given you this news that they will evacuate Palestine and hand it over to the Mussalmans? No, never. You already know the present conditions prevailing in Palestine. The Jews and the Mussalmans had never quarrelled before. Those Jews who, on account of the tyrannies committed on them by the Christians, were turned out of Europe in the same way as the Mussalman Moors were driven out of Spain, those Jews who could not get a span of ground to rest anywhere in the (whole) land of God, those very Jews found a refuge in the land of the Turks. Those Jews had never fought with the Mussalmans. To-day a Christian Government goes to Palestine; the Christians send there a Jew hireling of England, namely Samuel. And they are told that this action is taken for the sake of the Jews. But in my opinion Lord Reading is certainly clever to this extent that he understands this much that "Palestine is not for the Jews; it is for good Christians and also for bad Christians." Lord Reading should know that Palestine is not for the Jews. It is for good Christians and also for bad Christians. It is done for the Christians in the name of the Jews, because it is the land in which Jerusalem was conquered by the wretched (lit. unfortunate) armies of the Indians and the Arabs, by the army of Lord Allenby out of which two-thirds were

were Mahomedans. At that time Lloyd George had remarked that that was the last crusade which was fought and which proved successful. The thing for which the Christians of Europe struggled for centuries, is secured by England through Allenby today. This is the same Lloyd George who today asks his own clergymen of England not to confuse politics with religion. What sort of politics is this with which religion is completely mixed? The war in which the Mussalmans were caused to fight against the Mussalmans, has become a crusade. If any Mussalman among these brothers (pointing to the reporters) is a servant of God, who has some respect for God and the Prophet, then I shall tell him: "Brother, I do not (want to) ask, you should (better) enquire by writing (to him) what kind of crusade was that in which the Mussalmans fought against the Mussalmans on your behalf for the sake of Mesopotamia. What has become of the mandate of that place? Mesopotamia is part of the Island of Arabia. What has been decided about it? The decision about it is that the English (lit, we) are sending Amir Feisul there as a candidate (for the throne); and if he is accepted by the people of that country then the English (lit, we) shall also accept him. The poor Feisul has been disposed of in this manner; driven from that side and driven from this side. He had gone to rule over Syria; (but) France drove him out by force (lit, pulling him by the ear). When he went to England he was told to leave that country (otherwise) England and France would quarrel. France and England have now become brothers. But this Feisul who had fought against his spiritual and temporal guide, was staying in Italy when we saw him there. He has now proceeded to Baghdad. He might have reached that place by the 25th or 26th of June; but we have not had any news except this that he was given a magnificent reception there. Those brethren who have witnessed the most magnificent procession of the Duke of Connaught both in Calcutta and Bombay and afterwards have seen long descriptions in the Indian and English newspapers, can imagine how good poets our editors are. No Indian joined the procession of the Duke of Connaught, but it was stated that all the Indians were clapping their hands and making merry. Similarly they must have been making merry in the case of Amir Feisul. But you should know the reason why he is presented to the public of

TRIAL OF ALI BROTHERS & OTHERS.

Mesopotamia. It is so because he is penniless. For his sake people stopped going to the Pilgrimage. He also did not get the petty sum which he used to get from the camel-drivers on account of the opposition that he made against Islam. Now he depends upon the charity of the English. But do you think that these (the English) bestow charity upon him only? Never. You do not know anything about this nation, if you knew only so much, that it made the Arabs fight against the Turks. When I was in England, "The Daily Express", an English paper, began to publish in the month of May in the newspapers (perhaps its own columns are meant):—"What a havoc it is that our Government is divided into two parties, viz, India office and Foreign Office. One Amir is granted pension by the India Office, whereas the other Amir gets it through the Foreign Office and both are (always) at variance (lit. fight) with each other. But you should know that the country of Nejd is inhabited by *Chair-Muqallad* people those who do not follow any Imam). They have got an Amir of their own—named Ibn-i-Saud. The Government has made him its pensioner by giving him a pension of £ 60,000 per annum, and it is with a view to send him against the Sherref at once, in case the Sherref proves devoid of such nobility as may give rise to mischief in Kaaba; (a sarcastic remark, meaning to do unholy things in God's temple), or, in case the sherref tries or his descendants try, to break their connection with the English, a second man may be ready, just as the quails, cocks or partridges are kept ready for fighting. This is why these two partridges, or quails or cocks are kept: and in this way Amir Faisul was helped. But it is not Syria or Palestine only where these (the English) are maintaining their authority but in Madina-e-Tayyiba (holy Nedina) itself and Khana-e-Kaaba (temple of Kaba) that their authority is maintained, because the Secretary to Amir Feisul said to me:—"There is no letter of ours which we can send to the Sherref directly." So you can judge (for your self) whether this rule is Islamic? No even, on this day, the Neba is invaded by *Kafir* (infidel) (and) it is not immune from the unbeliever even today. I spoke to Amir Feisul as follows on Lake Coman in Italy, and the tears were then flowing from my eyes:—"O; Amir, you reproach the Turks, yes, the Turks are bad, so

bad as to sever their connection with their brethren like the Arabs, but the deed you have done has never been done by any one on the surface of the earth. What you did, is that you falsified the oath of the one and Companionless God of the Muslims; that God, who swears (Arabic quotation) by the fig-tree, olive-tree, Mount Senad and this safe city.....that God who mentions this safe city in these terms:— (Arabic quotation omitted) "he who entered in that, got refuge"; and no one can kill even the pigeon, mosquito and fly of that city there, the Shakhul Hind (Chief religious Head of India) the guardian of the tradition of the noble Prophet (Maulana Mahmudul Hasan, resident of Deoband) takes his flight from the clutches of this Government—this cruel and usurping Government to save his religion and to seek refuge in the holy precincts of God and there you arrest him and hand him over to the infidel, in whose hands he remained a captive and consequently he died only a few months after he reached India owing to the tyrannies and troubles inflicted on him there. You could not give refuge to that man (over) in the protected city. God will punish you for that." And we see that God will punish them, and he and his deed will be cursed by God, His Apostle, angels and the holy Mussalmans.

But along with this I pray that even now, God may guide him. His father and that Ibn-i-Saud himself who is ever ready to wage war against him, (to the right path) so that they may repent and become followers of true and holy Islam. I talked of the Island of Arabia before you. Now the question of Khilafat remains. It is the duty of every Muslim (to help) in maintaining the prestige of Khalifa for Khilafat and to make all arrangements for the perpetuity of Khilafat. If I make a lengthy speech (lit. exposition) about Khilafat to-day in this place which is the gate of Islam, through which the blessed feet of Islam stepped into the soil of India, (I fear) I shall greatly insult (the intelligence of) the Mussalmans of Sind, at this moment. But my dear brethren, I will ask you to remember the time when the honoured Prophet departed from this mortal world, advising you to turn out the Jews and the Christians from the Island of Arabia, when the people were perplexed as to how they would be able to manage their own affairs on the death of the Prophet who

TRIAL OF ALL BROTHERS & OTHERS.

had conducted their affairs on their behalf for 23 years. And they were the persons who had got nervous at the battle of Uhud. (Language is not clear). To-day he (i.e. Prophet) departs from this world. Hazrat Omar observes the perplexed state of the Mussalmans and sees how they are bent towards infidelity. At that time, he could not do anything but stood straight, drawing up his sword saying; "He who says that Mahomed is dead, will be slain." At that time comes in Hazrat Abu Dakr who asks as to what it is. He then reads out the same verses that were revealed on the occasion of the battle of Uhud, i.e., "Mahomed was only an apostle, many apostles preceded him." (Arabic quotations translation rendered wrongly in Urdu as follows); "Who was Mohomed? Mahomed was one of our messengers, we have sent a messenger as an apostle before him, if he is killed, will you revert to infidelity? He who reverts to infidelity will do no harm to God, but he who is grateful and keeps patience in misfortunes, is gifted with favours by God."

Do you know anything about that time when the Prophet departed from this world?. Well, the infidels of Mecca who had watched him closely on the occasion of the armistice concluded at Hudaibiyya where the Prophet was lying under an accacia (Babul) tree having gone there with the intention of performing the "Amrah" ceremony, the same infidels were asked (by their own people). "You have concluded a peace with Him (the Prophet) but what sort of man did you find him? They replied:—"We saw the Courts of Rome and those of Persia but by God, excepting the service of God we never found any man acting upon the sayings of another man, or obeying his word, or serving any king or any vizier, to such an extent." The same honoured Prophet dies, but the Muslims gather together leaving his dead body without performing the burial ceremonies. Why? A dead body can be buried afterwards, but as to the living body of Islam, it is necessary to arrange for that. The Khilafat is the Prophets heritage and to uphold the same is the duty of every Mussalman. My dear friends, who is that person who can give preference to his domestic affairs, or to his daughter's marriage or to watering his fields over the burial ceremonies of the Prophet?

He a person who can prefer these matters and who gives preference to the service of this Government to the burial ceremonies of the Prophet, I will request him to admit (lit. to say) that no responsibility regarding the Khilafat lies on him—excepting this man, I will say to you that no other duty is more important for you than this (and) that you should take care of it. Had you been living at that time you would have managed that (i.e. the Khilafat) leaving aside the burial ceremonies of the Prophet. The condition of the Khilafat was bad in those days but it is worse in these days. We have no Abu Dakr, no 'Omar, no 'Uthman and no mighty lion of God 'Ali' in our midst. The combatants of Badr also are missing from amongst us. When they (i.e. the combatants) were reminded that the enemies had a steady aim against them and that they should fear them' (on the contrary) the fear of God increased all the more in their hearts. The Qaran itself bears witness about them. We are in a miserable plight today; we have not got those tribes in our midst—when first of all Islam appeared in Sind and through Sind in (the whole of) India, a man bearing the same name as that of our Prophet (may my soul be a sacrifice to you, a apostle of God) i.e. Mahomed bin Qasim entered the Sind country, the Rajas of that place said to him:—"Why do you feel so proud? What do you mean (by coming over here?) The inhabitants of this country are not like the Arabs who drink she-camel's milk and eat maize and whom you easily conquered in the battle; but when you will have to face the Indian Rajputs and bear the brunt of their swords lit. taste the wound inflicted by their sword then alone you will realise the truth. You walk on foot or ride camels, but we have got elephants; and when you see them, what to say of camels, men's hearts and even your heart will tremble." What did Mahomed bin Qasim say to him in reply? He merely repeated it and added:—"Brethren, you trust in elephants and horses but we trust in that God who says:— (Arabic quototion follows:—) "Did you not see, what your Lord did to the masters of elephants? What did we do to such a big army as that of Arabs who invaded the Kaaba, by means of a few birds which were holding small pieces of gravel in their beaks and claws?

We trust in that same God to-day. My dear brethren, the

TRIAL OF ALI BROTHERS & OTHERS

Prophet himself remarked about Islam that it took its birth in a strange atmosphere, and that it spread in the world as a strange religion. I do not know what Islam is, who the God of Islam is and who a Muslim is. Everyone used to terrify them (the Mussalmans) and ordered them to go either to this place or to that place, just as one is made tongue-tied by section 144. The people entered their houses fearlessly in the same way as in these days every insignificant person thinks himself to be a powerful one—Islam is in the same state today; because the Prophet was a true Prophet and had prophesied that Islam was born among the poor and would revert to the same. See the helpless state of Islam today. Is there any one who can care more for his business, and to whom his livelihood, his employment, and the slavery of the English are dearer today? Who can prefer the protection of his houses and honour more than defending the religion of that illiterate Apostle and honoured Prophet.

Well, what reply did we get from the Courts of Lloyd George, Mr. Montagu and Lord Reading about Jazirat-ul'-Arab. Nothing. Neither we received any reply about Palestine, nor did we get any about Mesopotamia, holy Mecca or sacred Medina. Aden is no where. This Aden is going to be transferred to the Colonial Government from the hands of the Government of Bombay. Now Mr. Churchill will be its master and not Lord Reading. But I proclaim publicly that it (Arabia) can never be transferred to any Government except that of the Mussalmans (if God be pleased). The land of Arabia will come back again into the hands of the Mussalmans and no infidel will ever possess it. Let Mr. Churchill work out (lit. think) thousands of schemes, it will never pass to anyone's hands except those of the Mussalmans who are its mandatory. May it be so, O God. (Cries of All o-Akbar). Now ask as to what reply we got about the European law. No reply, except this that you should simply guard your own graves in Adrianople and recite Fatiha prayers there only. It is my intention to guard the graves of the whole of England and to recite prayers there. If London be converted into a grave, if the whole of England became a grave and if every male and female of England be buried in the grave, then this will make my heart more cool than this that the banner of Christians may fly over Adrianople instead of the banner of Islam. May the flag of our Islam fly to-day. And I pray let the Christians of the whole world be perished and I may guard their graves.

(Amen. Cries of Allah-o-Akbar) Why was Chotani sent for? Why was Dr. Ansari sent for? What for was so much noise made? It was the same thing as was told to me by Mr. Montagu in his Chamber in private as well as in the presence of all those persons, viz., "Adrianople will be kept under your managements, just as arrangements will be made for the Greeks in the city of Smyrna. There the Municipal Government will be in your hands." Was Seth Chotani called for this purpose? Was Ansari Sahab sent for this object? These are the means by which they deceive us saying: "your tears have been wiped off (and though) you did not get all, yet you got something." As regards Thrace not only this was not promised that it would not be internationalised but a total denial was made. The lips of our foolish brethren, i. e. Dr. Ansari and Chotani Sahab remained also closed at that time. They said afterwards that they did not want international Government. We know that an international Government was established in Crete, but what came out of it? It is in the hands of Greece to-day. What has become of the holy places and mosques of the Muslims? That Musalman who is ready to forego an inch of land of the Islamic kingdom with a view to its passing into the non-Muslim Kingdom, is in my opinion outside the pale of Islam. Although we are not at all prepared to see Thrace going under international Government, yet Lloyd George refused that much too, and said:—"That is not our beat." i. e. it is not included in that limit which is assigned to a chowkie. To drive the Muslims out of Thrace and to commit tyrannies over them are in your beat, but to ask the Greeks to leave Thrace is not your beat. May the curse of God and that of the whole creation of God be upon England (cries of curse). Then about Smyrna it is stated:—"It is the French view that some other arrangements may be made about Thrace." And when something is suggested, they say, we are helpless; Allies are not willing, just as they say in trade "I am willing, but my senior partner is not willing." When it is intended to refuse to give anything it is said: "I am prepared but our ally does not want to be a party to it." Similarly when the Government is not willing to give anything, the allies are to blame for that. If this Government is prepared to leave Palastine and Mesopotamia, I assert (or I say with confidence) that I will recover the rest of the Turkish territory. But the firm grip of these people (the English) should, first of all be removed. We

TRIAL OF ALI BROTHERS & OTHERS.

shall fight again the Greeks afterwards; First of all a fight should be fought against the Government. What I have to say—what little I have to say about Smyrna, I will say after this, when the second meeting begins. And now the meeting is dispersed. (Accordingly the proceedings came to a close for half an hour at 8 p.m. for offering prayers).

Sd. LAKHTE HUSSAIN.

Inspector C. I. D. Reporter.

True Translation.

MAHOMED SHAH,

D. S. P.,

Thar and Parker.

Ex. No. 13.

It is the same speech of Mr. Mahomed Ali as in Ex. 12. It is translated by Mahmoodshah. (Compiler).

Exhibit No. 14.

Mr. Mahomed Ali's speech at Idgah on the 10th July 1921 as reported by Inspector Lakht Hussein.

Mr. Mahomedali (the Ali Brothers) delivered the following speech in a public meeting at the site of Idgah of Karachi on the 10th July 1921, at quarter pasts seven in the evening.

Shri Shankar Acharayaji, Hindu, Muslim and Sikh brethren ! (though) my voice has become totally hoarse owing to my delivering speeches continuously for the last three days—to-day, yesterday and day before yesterday—yet I will say before you what I have to say for few a minutes.

You brothers are aware that ever since this British Government has come to rule over us, we have been experiencing its defects and its imperfections. The remedy of those imperfections and the remedy of these troubles which we thought of was (as we had been doing before) to lay before the Government our tales of grief and to ask it to remove our troubles and to give us comfort and happiness instead.

When these—the Englishmen—came to India, and from trading and making money, they went above the position of traders and became Rajputs (rulers) and acquired the Raj, then seeing that the Hindus were greater in number (than the Mussalmans) they (the Englishmen) said to the Hindus “We have come to save you from the trap of the Mussalmans”, My brothers I do not complain of the Hindus, because the mistake committed by them has been committed by the Mussalmans too, and last of all by our brethren the Sikhs also. The Hindus were deceived into the belief that really they (the English) had come to rescue them. Old dead bodies were exhumed. To-day the Viceroy says, “Why do you exhume the dead bodies, two years old?” Oh! the dead bodies of the time of Mahmud Ghaznavi, the dead bodies of the reign of Aurangzeb and the dead bodies of the time of Tippu Sultan were disinterred and our Hindu brethren were made to read histories, out of four pages of which 2 or 3 pages were devoted to a description of the vices of the Mussalmans in highly coloured language. Thus they (the English) created such a hatred and such a malice in their hearts as made us inimical to each other. Well! God be thanked, for both Lord Chelmsford and Mr. Montague have admitted this fact that in case I am prosecuted under section 124 A, I will say the same thing which was told by the fisherman before the Caliph, that is, “Sire, the price you pay me for this fish half of it will go to your door-keeper, and the price of this fish is one hundred lashes. I do not ask for money, house or palace but one hundred lashes and half of this should be shared by the door-keepers, so fifty lashes be supplied to the door-keeper and the remaining fifty to me because we had mutually agreed to share the price of the fish half and half”. Thus if I be (accused of) abusing the Government Lord Chelmsford and Mr. Montague will be my partners in the same. There will be no solitary confinement but all the three will lead a happy life. (Laughter) After that, when the Hindus received English education and later on demanded their rights, and the fulfilment of the promises made to them, to whom did our Government go running then? It was running to those very Mussalmans who used to slaughter the cow of the Hindus, who used to break the idols of the Hindus and who used to turn the Hindu temples into mosques. Ask Shanker Acharyaji as to how many temples are there that were turned into mosques. It is unlawful for Mussalmans to contribute anything towards the construction of a temple but in Kashi

TRIAL OF ALI BROTHERS & OTHERS.

there are Jagirs attached to the temples which were given by the Moghul Emperors and Aurangzeb, but you will not see a word about it in your history. You (the Hindus) will be told that the temples were demolished and mosques built in their sites, whereas (in Islam) it is unlawful in a state of peace to offer prayers on a ground which may have been usurped from the other. (Under the circumstances) how was it possible for them to turn your temples into mosques?. It is unlawful for us to say prayers on a piece of ground that has been usurped from the other without payment of its price. In short, when you asked for your rights, our clever Government went running to the Mussalmans and said to them :—"Muslims, see, what is taking place. These Hindus demand their rights and if we give them their rights who will help you (lit. listen to you) because they are four times your number (lit. they are four and you are one). Our Mussalmans had seen that their empire had been upset, their wealth had been usurped, their kingdom had been taken away and that the Hindus were being put up against them, and yet the stupid Mussalmans yielded to the same deception which had been effective in the case of the Hindus. Brethren, the bait for the Hindu fish and Muslim fish was alike. Neither saw the bone but both of them swallowed it, and when both were dragged out of the water by means of the line and left to struggle on the sand, it was only then that they realised what had happened and they came to know that the bait which they had swallowed thinking it to be soft eatable was not meant for their food but for their being made food. There were also our Sikh brethren who did not even think of that (what was happening to Hindus and Mussalmans). They were fewer in number than even the Mussalmans. The Government required strong, robust, brave soldiers from the Khalsaji the descendants of the Gurus for the army in the Punjab. The Sikhs were told by the Government that it was their friend and that both the Hindus and Mussalmans were their enemies. See how the enmity was created during the war between the Hindus and Mussalmans and the followers of that Guru Nanak who had come on a mission to unite the Hindus and the Mussalmans. When the war came, the recruiting officers themselves told us how they recruited. (They said) "the best recruiting sergeant for the Indian Army is the British India famine". But when (inspite of famine) the people began to feel ashamed of (their going to the war

APPENDIX 'C'

to give their own and to take others lives like butchers only for ten or twelve rupees, the recruiting officers played another trick. They went to a village of the Punjab, and seeing that it was inhabited by the Mussalmans, they said to them:—Muslims, if we are defeated, the Hindus and the Sikhs will become rulers and you know Sikha Shahi (highbattedness of the Sikhs). During the reign of Ranjit Singh, horses were tied in the mosques, come and (help us) to achieve victory." The Mussalmans went up running and handed over their Holy Places to the infidels and slaughtered (lit: applied the knife on the necks of) their own brethren. When they went to a Sikh village, they said:—"Help the Government, if it is defeated, then remember the days of Farrukhseer, your Gurus will be punished and you will be beaten, turned out from every place and you will be oppressed." These are not things of the past but they are the tricks which are being practised even to-day. To-day full effort is being made to create a split between us, the brothers and Mahatma Gandhi by every possible way. Sometimes we are excited, at another time he is excited. Sometimes we are threatened, and at another time he is threatened, because they (the English) know that their safety lies in the split of the Hindus, Mussalmans and the Sikhs, and in our unity lies their death. Brethren, what will a dying person not do?. This is the only weapon in their hands, so they use it. Our Government has got two weapons, one is named violence or force, that violence which confuses them when we think of resorting to it and they take it very ill. The Government ought to practise non-violence but what is the weapon of the Government? It is violence. Take for example, Karachi, and see how much amount is spent on violence and how much amount is spent on non-violence; what sum is spent on your schools and what sum is spent on Bungalows and Barracks. So one of the weapons is force and the other is fraud. They derive the force from the very fraud. They are thinking of running the Hindus, the Sikhs, the Mussalmans, the Aryas, the Sanatanies and the Brahmins by setting one against the other, and during the whole period of fraud, the Mussalmans were deceived, the Hindus were deceived and all of them used to submit a petition to Government when they had any grievance requesting that their grievance may be changed into comfort. This gave rise to the Congress and more than 35 years have passed since it was established. Do you know what the Congress used to do in the beginning?. It used to

TRIAL OF ALI BROTHERS & OTHERS.

erect a Pandal and even not as many persons attended it as are present here in this meeting (pointing towards the assembly) and that was called the "Indian National Congress." The Mussalmans used to run Koha away from it, and the Sikhs were also not seen there and if any bearded person was seen, he was warmly received and it was said that a Mussalman had also joined. But Brethren, whether the Mussalmans attended it or not, what was done in it? Only a few speeches were delivered and it was published in the newspapers that it was a week of self-sacrifice. But what was the self-sacrifice? A few persons paid the railway fare from their own pockets and gave the usual admission fee—fifteen or twenty rupees of the Congress and delivered speeches for three or four days preparing and writing those speeches in the nights. Surendra Nath Banerji, Peroz Shah Mehta and Badruddin Tyebji used to attend and deliver harangues. Boys used to remark that the diction of Peroz Shah was good and that the delivery of Surendra Nath Banerji was fine. All these speeches used to be a mere play of the tongue followed by big resolutions and an appeal to the Government interspersed with a protest and then an indignant protest. The Government knew that the gun had a long barrel, but brethren the penetrating power of this gun does not depend upon the length of its barrel; on the contrary it depends upon the 'charge' which is behind it and that is only a small cap of the gun. In front of it there is a little power and then a bullet. Everything depends on this charge only which propels the bullet. Nothing depends on the length of the barrel. Even a pistol cane serves the same purpose as the longest gun. So the Government knows that it was merely firing blank cartridges and therefore it did not care for it at all. Meanwhile the war began, our very brave and daring Government says to-day:—"Do you think we will be afraid of you black people; we have won such a big war in Europe?" One should ask the Government how they have won the war when in the month of October battle was going at Ypres, Calais was threatened and if Calais had fallen, would they have been safe? Very brave and faithful soldiers of the Government themselves and even their Gurus—I see (persons) wearing Khaki turbans and perhaps to-day they may also bear witness—told me that when they proceeded to the battle-field they enquired (from their officers) about the work to be done by them. They told them to dig a trench because they could not keep their stand at the place where they were then fighting, so they would go back to the other trenches

APPENDIX 'C'

the next day. The poor soldiers went up there with sword etc. to fight but they had to dig trenches with a spade. Even the Labour Corps could do that. A trench was dug up. British soldiers came to it and fell asleep in it comfortably. On following evening when they asked for orders it was ordered that they should dig a new trench because they (British soldiers) wanted to retreat still further back. The same order was given to dig a trench next day. And when constant digging made their hands quite hard and rough the Indian soldiers requested them (the British soldiers) to occupy the trenches they were occupying and to allow them (the Indian soldiers) to go to the trenches which were occupied by the British soldiers. So the Indian Army occupied the front trenches and the Sirdar Bahadur took rest and comfort in the hind trenches. The Indians fought and won the war but to-day an announcement is made of bravery and it is said that the British Army is such and such and that it gained victory over the Germans. If the Indian Army had not gone to the front the English would have been grinding the mills for the Germans. Brothers (pointing to the men wearing Khaki turbans) if I am telling a lie, say so just now. The money of India and men of India (were taken.) But when India was asked to manufacture munitions the Government came to know that no industry existed in India and how could the Indians manufacture anything. Had there been any cloth-manufacturing factory in India (lit. here) they might have manufactured munitions but as there was no (such industrial) factory at all how could anything be manufactured? The Government then created a child (miniature) of a Munition Board and founded an Industrial Commission so now it boasts of giving an uplift to the Indian trade. Our brethren, the Indian merchants who are present here should hear that the greatest Banker in Bombay was brother in an English firm who got eight annas per cent (as commission) of the profit and thus became a millionaire. When Mahatma Gandhi had a talk with him he said that he had become a millionaire through this Government. Mahatmaji told him that he who got only eight annas per cent became a millionaire but what about the wealth of the firm which got Rs. 99-8-0. The Company got all that money through India and he (the Banker) thought that we got money through the Government where as the fact was that the Government got money through us. Well, when the war began both the Hindus and the Mussalmans thought that it was a critical time for the Government and

TRIAL OF ALI BROTHERS & OTHERS.

if they could help it at the time of its adversity, they were being regarded by it as contemptible people, but that it will cease to treat them as such, that it was not kind to them but that it would become kind in case we would help, that it was not affectionate towards them but that it would become so. Our Hindu brothers gave money, Army and materials. Our Mussalmans went a step further in their fidelity to the Government. No one had asked the Hindus to give up their religion but to the Mussalmans the Government said:—"These (the religious commandments) are old by-gone things of 1300 year ago. It matters little (to disobey them), you should obey the orders of the Government and such is the order of it." It is only to day that I have come to know from Maulana Abdul Bari that there is a member of a Taluqdar's family in Lucknow who favoured his views, censured him a good deal and asked him why he did not assist his 'Slave Sabha'. He said that he had received that day an order from Governor Butler to the effect that any Taluqdar who remained passive and inactive should be regarded as an enemy (of the Government). The Taluqdar said that he could not help him, where upon the Deputy Commissioner drew his (Taluqdars) attention to what was written in his sanad and told him that it was laid down in the sanad that he would be loyal to the Government. The Taluqdar said that he had the Quran with him as his Sanad and it was stated in it that he should obey God and His Prophet, so how could he give up the latter for the sake of the former? To-day the same Government asks the people openly to give up their religion. The Mussalmans sold their religion and the Holy places-about which the Viceroy on behalf of the King-Emperor and the Allies made a declaration to the effect that they will be safe and all were captured with the help of the Mussalman Army. If there is any soldier present in this meeting who is to proceed to Mesopotamia, I would remind him that it is stated in the Mesopotamia Commission report, that when the Muslim soldiers advanced towards the tomb of Hazrat Salman Farsi who is called holy Salman they shivered and trembled and were at a loss to know what calamity was impelling them to invade the tomb of that chosen companion of the Prophet. Who was Salman Farsi? He was a Pharsee. He left his home and started in search of Islam and perhaps became a Christian but afterwards heard that the Quran was revealed to the Prophet, so he went to him and accepted Islam. To-day we are asked as to what connection we have with the Turks or the Arabs, as we are

Indians. Brethren, don't you remember that when that Parsee, a native of Iran, Hazrat Salman was asked about his father's name, he said that he was Salman son of Islam who again was son of Islam, i.e. his father was Islam, his grandfather was Islam, and his thousand ancestors were Islam. Our Mussalmans were made to leave very Islam and were told to go and invade those Holy places and to invade Baghdad Sharif where lies the tomb of Hazrat Abdul Kadir Gilani. They were ordered to attack Basra where the tomb of Hazrat Hasan Basri is and whence Rabia Basri had come. Which Rabia Basri? She was questioned as to how prayers were offered in the religion. She said that it consisted of only two *rakats* (bendings) (Arabic quotation omitted):—"In the religion of Love the prayer consists of two *rakats* (bendings), i.e. a very brief prayer (Arabic quotation omitted) but the ablution which is made for purification in the offering of this prayer is not made by water but it is made by blood". To-day our Muslim brethren invaded the city of that very Rabia Basri. They performed ablution and performed it with blood but they bowed their heads before the infidels and offered their prayers before the Satan. There exists no greater idolator than yourself. You handed over the keys of the Holy places of Islam to the Christians and this is unsurpassable idolatry. As for Palestine, and do you know which Palestine I mean, my Hindu brethren, hear. I mean that Palestine towards which our Prophet turned his face while offering his prayers just as I have now said my prayers towards Mecca in the direction of Qibla. Our Prophet had offered his prayers in the direction of that Jerusalem. (The speaker had offered his evening prayers in the meeting before the lecture was begun). All the Mussalmans used to say their prayers with their faces in that direction so long as the Qibla had not been shifted towards the Kaaba. When our Prophet (was honoured) by his ascension (to heavens) he conducted the prayers in that mosque the Aksa mosque in which all the prophets joined.

It is stated in the Quran:—"Glory be to Him who made his servant to go on a night from the sacred mosque to the remote mosque of which we have blessed the precincts." In those very holy precincts, the wretched Muslim army along with the Arabs who may be the Prophet's descendants, were present (operating). Those Arabs were apparently the descendants of the Prophet, but it seemed that they were

TRIAL OF ALL BROTHERS & OTHERS.

the descendants of those wretched people who had expelled the Prophet from Mecca Madina which had proved true to the Prophet and to which the Prophet also proved true in as much bones are to-day buried there, that holy city was conquered by Lord Allenby with the assistance of our Indians who again were helped in this conquest by the people of Mecca, inspite of the fact that the Prophet fought for the people of Mecca up to the last moment. That same Medina was handed over to the Mussalmans without any battle. The Mussalmans had besieged this city in the time of Hazrat Omar, 1300 years ago. The Christian clergy told the Mussalmans that there was no use in fighting and that it was laid down in their books that other people (than Christians) were entitled to possess it. The clergy proposed that Mussalmans should send for their Sirdar and that if the Christians saw that he answered the description given in their books they would give over the city to the Mussalmans without fighting. Accordingly Hazrat Omar Farnq arrived. He conquered Persia, he conquered Syria, he conquered Mesopotamia and he conquered Egypt. But what was the nature of the pomp which characterised the march of the Muslim Sirdar? His commissariat consisted of one bag of dates and one bag of 'Sitta' (pitched flour of barely or wheat). To-day a rotten European private is accompanied by a large commissariat at our expense when he goes to fight. When the (Omar) was coming the hoof of his horse got worn out on the way. He had only one slave with him who was his aide-de-camp, his body guard, his army or whatever you may call him. He was alone with one slave and that slave was riding a camel. The slave offered camel to Hazrat Omar and proposed to lead the camel on foot by the nose string. Caliph said that could not be done as under the Muhammadan religion a Mussalman was a partner of the other Mussalman. The Caliph decided that the slave and he should ride the camel equal distance by turns. Accordingly the journey was performed in this manner from stage to stage. The Caliph rode the camel some distance and the slave led the animal by the nose-string and then the slave rode it and the Caliph led it by the nose-string. When they approached Baitul Muqaddis, the Commanders of the Muslim Army came to receive him dressed in fine clothes which they had got in the battles. They saw the Caliph wearing a kind of 'Kurta' (a kind of shirt) which had fourteen patches and some of the patches were of leather because cloth was not available. See the uniforms of to-day. A rotten European private has a better dress than

our 'Kair al Montain'. It so happened that when they approached the city, it was the turn of the slave to ride the camel. The 'Sirdar' of the Muslims was holding the nose-string and the slave was riding the camel. The people who are acquainted with Urdu poetry will value the verses which my brother composed and which describe the above incident. He says:—

The caravan is proceeding in the direction of Baitul Muqaddis
The head of the caravan is a respectable young man
But it is strange that he is performing the journey on foot
And his camel driver is riding the camel in his stead
Both of them are showing their regard for Muslim brotherhood
And are proceeding, mounting the camel and dismounting it
by turns.

Seeing this state of things the Christian clergy handed over the keys of Jerusalem to the Mussalmans without fighting. To-day our Mussalman brothers of India and Arabia have handed over the same keys again to the same infidels after having dipped them in their brothers' blood. The Mussalmans are undergoing punishment for this and they are weeping for those holy places which were not conquered by any Englishman but by Mussalmans. Lloyd George says that this was a crusade. All right, this was a crusade in which the people of the Crescent fought the battle of the crusade. Our Sikh Brethren had rendered great assistance to the Sirkar. The Great God had apportioned punishment to every one in proportion to his offence. The largest number of the recruits was enlisted in the Punjab. When Pandit Madan Mohan Malaviya who is worshipping the Viceroy today was annoyed with the other Viceroy the other day he was rebuked by Sir Michael O'Dwyer in the Council. You remember that when Sir O'Dwyer rebuked him in the Council, he remarked on that occasion:—

"What help have you given to the Sirkar?"

Our Punjab has given help to the Sirkar, the Punjab supplied more than half the army. God said "Well, we are going to see the Punjab also." It was Gujrat which took to Satyagrah. Ahmedabad commenced it. Gandhi was detained at Palwal, but bullets were fired in the Jallianwalla Bagh in that City of the Punjab which contains the holy 'Asthan' of our Sikh brothers. Well—Just give more help to the

TRIAL OF ALL BROTHERS & OTHERS.

Sirkar. This is the hand of God which combined the Hindus, Mussal-
mans and Sikhs—all the three nations—in the Jallianwalla Bagh, in
Amritsar, in the Province of the Punjab which had given the greatest
assistance to the Sirkar. It was there that the Indians were made to
crawl on their bellies and it was there that fire was opened on the
running Indians. I have received a letter from Aligarh from which it
appears that the police aggressed and fired on the unarmed people.
They (probably mean police) have themselves looted, six persons were
killed and more than fifteen wounded. Unarmed people had been
attacked in the Punjab exactly in the same manner. I know that this
Sirkar will resort to bloodshed again. It mentions non-violence and
its heart is full of violence. This Government has committed violence
and it will again commit violence. Indians will have to see another
Jallianwalla Bagh, but I beseech you with folded hands that on that
day you should receive the bullets on the breasts and not on the back.
(Allah-O-Akbar, cheers.)

Brothers, we have received our reward. My moderate brothers
ask me to go to the Council. They are honourable members. When
my name and that of my brother was taken in the Council and some
one said "those gentlemen" it was said, "they are not gentlemen."
These members are the same people who themselves proposed a resolu-
tion that they should be called 'honourable'. Before this, Shakespeare
has written this very thing. Antonio too had said in his speech:—

"They are honourable, all honourable."

These honourable men call us to the Council. The 'Pioneer' showed
great kindness to me after I had asked for pardon with folded hands,
which is being given to me and I am being called to the Council.
This means a suggestion to the effect that when we have displayed so
much shamelessness we should as well show a little more shamelessness
and go to the council. They call me and Shankat Sahib now to the
Council. My reply is this that brothers, I do not know how to crawl on
the belly. Everyone who goes to the Council, be he the greatest title-
holder, the greatest land-holder, the greatest Brahmin and the great-
est Sayed, he crawls on his belly in the street of Amritsar and then goes
to the Council. He who is willing to crawl on his belly may go to
their Councils. I say that he who goes to this Council has the skirts of

his mothers raised up and then goes. Brothers, just look at the mothers and sisters of Minawalla, viz, our mothers and sisters. I feel that skirts of our mothers and sisters were raised. What was the reply of India to the Rowlatt Act and to the Martial Laws? The reply of India was the greatest revolution in the history of the world was brought about in one year. The Congress has been entreating the Government with folded hands for the last 35 years and the Mussalmans have been humbly beseeching it for the last 10 years that such and such are their grievances and that the same be replaced by comforts. The resolution is that India has now decided that in future, hands will not be joined before anyone and that hands will be joined before God alone. If we will have to ask for anything, we will ask from our brothers and sisters. What did the Nagpur Congress say? It has prohibited us from asking anything from Government. We are not going to ask anything from Government. Whatever we have to ask, we shall ask from God above and from our brothers and sisters below. The greatest revolution in the world has already taken place, what will you gain by forming an anti-revolutionary Society? Thief took away the horse from the stable, what is the use of looking in now? The revolution that was to come, has already taken place and now none will go before the Englishmen to ask for anything. You must have heard the name Haroon-ul-Rashid. A fit of generosity overtook him one day when he was sitting in his house. He told all his slaves and slave-girls that whatever they would demand, he would give them. One of them asked for Rs 100/- in a state of fear. He ordered the amount to be given. Another asked for a sum of Rs 500 and the sum was paid to him. A third asked for the Queen's robe and got it. Similarly a necklace of pearls and the King's old garden were given away. After all had been disposed of an old woman remained behind. The aged woman had seen the whole world. The King asked her as to why she had not demanded anything. She said that he would not give what she should ask for. The King told her that she had seen that all had been given what they wanted and that he would give her what she would ask for. The old woman seized the hand of the King and said that if the king was hers, the purse of Rs 100/-, the purse of Rs 500/- the necklace of pearls, the palace, the horse, the royal robe, all would be hers. What the Indians have so far been demanding in the Congress for the last 33 years was Rs. 100/- and Rs. 500/-. To-day

TRIAL OF SIR BROTHMAN & OTHERS

India caught hold of the hand of the 'Raj' and said that she wanted nothing but Swaraj. This change has taken place in the Nagpur Congress. My brothers if you approve of this and if you too want the King like that old woman, see what Jami says in this couplet.

"Everyone wants something from you according
to the wish of his heart.

All that is through you; I want from you your own self."

To-day the India says, that she wants India from India. If India becomes mine today, I shall have nothing to do with the Englishman. But this requires work. The way lies before you. There are two methods by which 'Raj' can be obtained. The method so far resorted to was that the sword was unsheathed and tried. The war had two heads. One head was cut off and placed on the point of a spear. The other head was raised high and looked down with anger and pride. But the plan for obtaining Swaraj which Mahtama Gandhi and his companions have placed before you is quite unique. You say, "How can Swaraj be attained without weapons and without wielding the Sword?" I ask "What sword did the Englishman use in getting India?"

My brothers:—I read a letter of my friend Sir Valentine Chirol in a French newspaper yesterday. He says that it has been published throughout Europe that Mahomed Ali says that the thief will be expelled from the same gate from which he had entered. The French people must be laughing heartily over it. These people (Englishmen) had come with cotton threads and they will go with cotton threads. (He read an extract in English). Do you know with what ambition the Englishmen came to India? He did not come to take away the clay of Sind. He came to take away the 60 crores of rupees for Manchester. The day when he will not get a single thread of cotton in your market, take it as a fact that on that very day history composed by Englishmen must come across praises of Governors and Lieutenant-Governors, but they will never say how they annihilated the trade of India. The people of India have however realised this process. They broke the 'Charkha' (spinning-wheel) and thereby introduced Manchester goods. We shall work the same 'charkha' and bring about a revolution by means of it. They bring their machine-gun before us.

I say what resistance can their machine-gun offer to ours. The machine-gun of the 'charkha' hits from Karachi to Lancashire. Its range is 7000 miles. Give up liquor and be pure as I have already said in the Conference to-day. The time of purity has come. The time of drinking liquor has gone (Compleat).

"The candle has got pale, so bring water for ablutions.

Take away the pitcher (of liquor). Now the time of prayers has come."

The very time you will bow in the presence of Allah, purified, the same day Allah will hear your prayers and will give you what you want.

My brothers the programme of non-violent non-co-operation is homeopathic treatment. Its principle is: "Simili similibus curantur." 'Similar things cure similar things.' That what brought the malady should be used to remedy it. To-day we will treat the English people in India by means of the thing which brought this disease in India. No big army of theirs had come into India. They conquered India by means of the money of India. India became their slave by co-operation: now if India wants her liberty she can get it by non-co-operation. The very idea of drawing a sword in the minds of 30 crores of people is a sign of unmanliness. There can be no struggle between one or one and a half lakhs and 30 crores. Again, if you send for the army of the Punjab and call for the Sikhs, the Mussalmans, the Rajputs or if anyone brought in the question of Afghan bogey, India will not get Swaraj in that way. Swaraj is that in which all of us have the right to take part. Swaraj is the Raj of all. It is necessary for the 'raj' of all that all should make some little Sacrifice; then sacrifice of 32 crores will blow off English just as children blow a 'Bhrhya' (a high soft substance). This "Burhya" will fly till it goes beyond the seven oceans. But I can entertain that hope only when there may be courage in your heart, manliness in your heart, love of freedom in your heart. If you do not like slavery, and if you long for liberty, then your heart should be disgusted with this 'raj' and there should be hatred, discontentment and disaffection in your heart towards this system of Government. Is there any lawyer here? Does anyone remember the words of section 124 A? If I have omitted any word, let me know it. In section 124 A the words are hatred disaffection and discontentment.

TRIAL OF ALL SUSPECTS & OTHERS

If there is anything else also in this section, all this should be in your heart with regard to this system of Government. I do not hate the Englishman. I love him so much; but he looks well in his own country; you look well in your country and I look well in my country. There is apprehension of quarrels in the prolonged intercourse." "Familiarity breeds contempt." There is one formula of liberty, learn it from our English brothers. If you want to ask how India would get Swaraj, do not ask the Extremists, do not ask Gandhi, do not ask Shaukat Ali and Mahomed Ali, do not ask the Moderates, but go and ask Sir William Vincent, go and ask the Indian Civil Service man, go and ask the Collector Sahib—very short gentleman, I hear. They know that there is one formula for the liberty of India viz, the Hindu-Muslim Unity. The day you people, Hindus, Mussalmans, Parsis, Sikhs all will live united, it will be impossible for the Englishman to rule over us. So my brothers, (here two or three shorthand words are illegible) in the coming two or three months the cow protection will be made the pretext for a Hindu to speak ill of a Mussalman and for a Mussalman to speak ill of a Hindu. Other pretexts will also be used. You will see with your own eyes that the Mussalmans will commit highhandedness towards the Hindu and Hindu towards the Mussalmans. Forget for God's sake and forgive each other. Accept what Lord Reading has said, viz, 'Forgive and forget.' Forget all things and remember this thing in establishing Swaraj in India we will be dependent on God and Unity of Hindus and Muslims.

(Allah-O-Akbar, enthusiasm).

(Sd.) LAKTE HUSSEIN,
Inspector, C. I. D., U. P.
Reporter.

Ex No. 15.

Reported by S. I. Abdula

Moulana Mahomed Ali addressed the audience of the District Conference at Sahdadpur on 11th July 1921 and said:—

My Hindu and Muslim Brethren:—I regret very much that I could not avail myself fully of the opportunity offered to me by my visit

Sind. I had intended to go round in Sind for 14 or 15 days. Karachi is half of London. I had a mind to say clearly what I have said in all villages of all districts where fields are to be sown. It is a meeting of the Hindus and Muslims. The land of Sind is sacred to all the Muslims. This land bears a great resemblance to the land which contains the sacred bones of our Prophet. When we see the dates and the desert of this country we remember that country. Sind was the gate of Islam. When the Mussalmans came they did not come in the manner in which the present Government came. They came with all their property. They committed atrocities but if they robbed one man they paid it to another and the wealth of this country remained in this country.

What is that which is uniting to-day the Hindus, Muslims, Sikhs, Parsis and Jains who were divided? We were not so divided as has been narrated in the history taught in the English schools. Had they (Muslims) been so oppressive, how could the Hindus have been found in so large a number? The English have been ruling here for the last 150 years, but the Muslims ruled for a longer period. The injustice of the English cannot be tolerated even after this short period, how could the injustice of the Muslims be tolerated for so long a period? The Banias were considered to be timid. But see how many brave men are to be found in Ajmer-Matwar and other places. Think of the bravery of the women who used to say (to their husbands) that they should kill them first if they intended to return home from the battle-field. They (the enemy) may take away from the country whatever they like but they should not touch the sacred Hindu woman. The Muslim Raj was not so oppressive as the Government of today, which made the children crawl on their knees and bellies. The bullets of this sinful Raj (Government) struck the chests of both the father and son. To-day no nation exists which may not be thinking of destroying this rule.

To-day you are putting off the yoke of slavery, to-day you want to put off the yoke which is not that of the God. You should think of the same means by which they strengthened their rule.

If you want to lay the foundation of Swaraj you can base it on Hindu Muslim Unity. This is the only secret of putting a stop to

TRIAL OF ADI BHAI & OTHERS.

the Hindu Muslim quarrels. We are not such as to be easily frightened and we will not flatter in vain. Moreover who can bear shame to his mother and sister? We considered this matter fully. We rarely wrote against the Hindus. We opposed them strongly. God inspired us that the Hindu-Muslim Unity was quite essential for driving the English Government of which both of us are tired.

Slavery, be it of the Hindus, Mahomedans or of the English, is not good. Slavery is only just when we are slaves of the Almighty. If we have to remain as slaves of someone it is better to be slaves of the Hindus. If we clearly see the "mark" we will fight against the whole world, but I will never fight against the Hindus. Because now that God created us to do good to others, so if a Hindu beats me and I do not lift my hand against him he will be ashamed. Mahatma Gandhi's heart is pained by cow-killing. We had an occasion to live with him. When people asked him why he was living with the Muslims who killed cows, he replied that if a Muslim kills the cow in order to injure the feeling of the Hindus he would fold his hands before him, and he would try every possible means, and if the Muslim would still persist in doing so he would offer his own cow to be slaughtered by him (Muslim). Would there be any Muslim to kill the cow even then. For Hindu-Muslim Unity, It is necessary that a Muslim should understand that the Hindus are his brothers. If the bridegroom are happy what will the Collector, Kazi, or Molvi or Pandit who has been deputed by the Government do?

Especially the Punjab Police men outrage the Marwari women here. O shameless people! When will you realise that the mothers and sisters of the Punjab are the mothers and sisters of Sind and vice-versa? Full efforts will be made and Pirs will be collected to set the Muslims against the Hindus. The Collector of Aligarh invited me, but afterwards got me and my children turned out from the Aligarh College of which I am a trustee. But the next day he invited me to tea and asked me whether or not the Muslims will forget the Khilafat and Punjab (wrongs) if they are given what they demand. See how a person like the Collector seeks to deceive me! Gandhi was directed to "Samjhae" the Ali brothers.

The Editor of the "Morning Post" of England invited me, interviewed me, and at the same time asked me how it was that we had become united with the Hindus. He and other Englishmen say that if the Hindus were to leave the Khilafat question they (the English) will give what we will demand.

Pork and beef will be thrown in the mosques of the Muslims and the temples of the Hindus respectively and it will be given out that it was done by the Hindus and Muslims respectively. They (the people) call it a Rawan Sarkar and the spokesman of this Government says that this is not a satanic Government. Brethren! It is worse than Satan. To call this Government a satanic Government is an insult to Satan. The Quran says "O God save us from Satan who puts vicious ideas in the hearts of the people."

Seeing the Hindus and Muslims united, the English mention the name of the Afghans. Efforts are being made in Gayaji to excite Muslims by saying that the Hindus there do not let the Mahomedans eat fowls and goats. These are the last days of the spring. This is not spring season. The spring of disunion is gone. Why do we hate this Raj? Why do you hate slavery? It is because Hindus, Muslims, Jains, Sikhs, and men of all casts tried their best to please them (the English). They gave their money and lives and they gave their property and the Muslims gave their faith even still they could not please that Raj. When none could please them we thought that we should expel them. When in the beginning of their Raj in India the English saw that at one place there were 4 Hindus and 1 Mahomedan, and at other place there were 3 Mahomedans and 1 Hindu, they tell the Hindus that Muslims were very bad..... Today the Viceroy says that we are disinterring the 2 years old dead bodies of the Jallianwala Bagh. Do they not accuse Mahomed Ghaznavi and Aurangzeb up till now? I have got a photo of Aurangzeb's parwana addressed to the worshipper (Pujari) of Kashi warning him against troubling the Hindus and telling him they may do harm to his rule. To erect new buildings of other religions in the towns of Mahomedans is as "Haram" as to demolish old Hindu buildings. Do not destroy the old temples. It is

TRIAL OF ALI BROTHERS & OTHERS.

as 'Haram' as to eat pork. I saw this ~~perman~~ written by Aaranguzeb himself, with a Hindu of Kashi. I took the photo. The original letter is with the worshipper. Our Hindu brethren commenced learning Persian and Arabic during the Muslim Raj. They (Hindus) did not object to learning English; so they received English education and when they got (English) education they were promised posts.

To-day our Police Officers, Deputy Collectors and Assistant Collectors are receiving treatment as Bhangis and Chumars at the hands of our Western brothers. But they are ready to cut the throats of their brethren. It is known to all that when the Hindus received education and began to enter the Legislative Councils, the Government left them and told the Muslims "O Muslims, the Hindus are demanding their rights, whence will you get your rights?" Thus we were misled. First they made the Hindus the enemies of the Muslims, then they made Muslims the enemies of the Hindus. What is the pay of these Police Constables, Subedars, Sub Inspectors, and Inspectors? (A certain person from the audience said that an Inspector gets from Rs. 200 to Rs. 250 p. m.) A strong Collector may be Smart or Thomas (*something left out*). Ask the merciful Governor what pay a constable gets in England. A police constable in England starts with Rs. 250. They go on strike if their pay is less than that; whereas these (Police Constables in India) stop Hartals in return for Rs. 15 if anyone goes on strike. What other work the Bhangis do? Our servants and of the English carry this rubbish (*sense not clear*). Lavender is applied to the hands of Thomas. A hint is given to do a satanic work and the Mukhtiarkar is ready to do everything.

Do you know how much the Prime Minister of England gets? Lloyd George before whom George is nothing, how much does he get? King George is not a Collector of Sind. He is the King Emperor and is under the Premier! He is not the despotic Collector or Commissioner of Sind. Zulfar Ali who was sentenced for five years praised God (in the following words):—

"O God how can one praise you, I think you to be the Collector".

We say that people are not so much afraid of Allah as they are.

afraid of the Collector. If a constable with a Red Pagri comes up, people think that he has come from God to take their life.

Lloyd George gets £ 5000 (Rs. 75,000) a year but the Commissioner gets more than that.

Sapruji, an inhabitant of India has become Lord Sahib by having a seat by the side of Lord Sahib in Council. He gets more pay than Lloyd George because he has accepted slavery. (Our) brethren in the police department are so much disgraced For they themselves get more pay than that of Lloyd George. This is because we are divided from the time they deceived both of us and we still remember it. The Congress worked for 35 years; the Muslim League for 10 years. The Congress used to pass resolutions or if got excited entered an 'indignant protest' whenever the Indians experienced any troubles. The Government put all that in the waste-paper basket. To-day so many temptations are laid open. Someone is offered Deputy Collectorship and another is offered Inspectorship. But let it be Mukhtarkarship or Governorship of Lord Sahib we will never feel happy so long as we are not to appoint our Governors ourselves. If this does not happen we will expell the English by the ear in the same way as they expell a Deputy Collector.

Yesterday a C.I.D brother whose name is Partabrai came to the station, (Karachi City Railway Station on 10-7-21). All the 5 seats of the 2nd class were reserved. On one of the seats my bedding had been spread. That C.I.D. man came in that compartment and sat above my head (topper berth). But that berth was reserved for a 'Gora'. It is an easy play for the Inspector to make or break the evidence. The same Government taught him all this. They (Government) cause false evidence to be given by people who would never have taken an oath even if the water of Ganges had been placed before them.

On that seat the words "British Rank" was written. He (i. e. the Inspector) tore it off. The guard told him that the seat was not meant for him. He told the guard that no other seat was available. The Guard gave him a seat in the 1st class compartment where the Commissioner sits. The Inspector was anxious to remain with me in order to arrest me.

TRIAL OF ALI BROTHERS & OTHERS.

I told Lloyd George whatever I had to say. What had I to say to an Inspector? I have told the Viceroy everything. Hamid Ali was my friend. May it please God he leaves this Government. Whoever will sit in this sinful boat will be drowned. Inspector Sahib did this. At the Cantonment Station the "Gora" for whom the seat was reserved came up with his gun and a sergeant. He told him to remove his luggage (the bedding of Inspector Partabrai was still lying in the second class compartment)

What bitch is the C. I. D., that he should come before brave men. He (the Gora) was abusing this Inspector in a very filthy language. I was regretting that if I had not given in writing to Mahatma Gandhi I would have beaten him to such an extent that I would have made a dog of him. But again an idea came across my mind "for whom should I fight." Should I fight for a C. I. D. man? He then went off from that place. The gorah sahib sat on my seat. I waited till he became calm and then I told him that he should vacate the seat as I had to offer my prayers. The whole night I thought of the C. I. D. A rotten gora who could get service nowhere and therefore joined the Military was abusing in such a manner that my heart was burning. The Inspector Sahib might perhaps be thinking to-day of cutting the throat of an Indian brother. He would have come to know if his spleen had been raptured and he would have realised how the Mai Bap (Government) treats. What lesson do you derive from this story? Such abuses are of daily occurrence. One Maim Sahib asked me in Delhi as to why I was so much after the English and what evil I had seen in them as I had lived among and known the mothers and sisters of the English. I am wearing Khadi and wandering about. The poorest man sleeps on his cot but I am undertaking journeys with great trouble. I told her that I had no personal complaint. This is the beauty of the English Raj that takes the name of any obscure village where the English could never have gone and where the public could never have thought of rebellion. In that corner of the country send the best angel-like Englishman. When that Englishman will walk in the streets then a brave and clever cultivator will also be afraid of him lest he should shoot him. If there are 4 Muslims in a Railway compartment and if an Englishman enters they will be frightened lest he should kill them. I

am not speaking ill of the Englishman. The danger of evil from the best Englishman is exactly the same as from a mad dog which bites. The Raj which takes out the fear of God from the minds of the people and puts the fear of man in its stead is a Rawan Raj. It is the duty of Ram to Kill Rawan.....

But the condition of this Raj is such that Hindus and Muslims are both complaining. What did the bees do with brave Government of Thomas and Smart whose one word is a bomb or howitzer. Lord Chelmsford saw this in the Nagpur meetings. He had come to visit Nagpur Hospital. What business had men where Lat Sahib goes? The black men were coming and going there. Bees also came there..... A dog does not eat a dog. The black bees thought that perhaps they will have to submit for slavery. All the Jo Huzurs came. The bees became frightened and began to fly. They began to sting. They kissed the Viceroy and he slapped. They stuck to the buttocks. His hat fell down and he ran in confusion. In going hurriedly to bath room of the patients and in closing the door his finger was cut off. A minor operation was performed on the finger of Lat Sahib. You are 32 crores and are afraid of 1½ lacs! The song of the bees was sufficient to make the Lat Sahib run away. An ordinary fly which does not sting spoils a man's sleep. You should not sting the Englishmen but only spoil their sleep. There is unity in the comb of the bees. You are also living in a comb, your houses are not the bungalows of Collector Sahibs. What is the way for you to do it? In the German War when our Government (which to-day boasts of its bravery) found it difficult to save its homes they took away the whole army from India except 15,000 men.

A sum of 1950 rupees is spent yearly on a gora soldier while only 450 are spent on an Indian soldier. But when the necessity arose in their own homes, they left alone our country and sent all the European soldiers to their own home to protect it. The brave man who calls "damn fool" came to loot my house. When your (refers to Englishmen) house was being looted you were weeping that the Germans were outraging your women. You took our army to save them. The country thought and Mahatma Gandhi said that the English would understand. We gave our property, the Sikhs gave their lives and the Muslims sacrificed their faith even. Is there any Pir Sahib or any President or Secretary of an

TRIAL OF ALL BROTHERS & OTHERS.

Aman Sahib here? Is he a Mahomedan? Has he never studied the Holy Quran? The Holy Quran says (Arabic verse) "Whoever kills a Mahomedan knowingly, will enter hell and will remain there for ever, the wrath of God will be upon him, and the punishment of God is for him". The Quran has not provided a similar severe penalty for any other sin. The Muslims of India, the Muslims of Sind, United Provinces, and of the Punjab, all these Mussalman Regiments go out to cut the throats of their Muslim brethren. Is there any weapon in the hands of your Government which can nullify the above order? You go and attend Aman Sahas and the blood of Bani Hasham runs through your veins. That Bani Hasham who...., ...to-day you go to the same Maidan of Karbala, to kill the soul of Imam Hussain that you may get land and titles of Khan Sahib and Khan Bahadur. What have you to do with Bahaduri? Your Bahaduri was to say that you are the one and the same people. God asked "Am I not your God". All replied "Yes?" The Quran has been asking you for these last 1300 years. (Arabic verses). "Is not God the ruler of the rulers". Oh! you are worshipping these rulers. You take oath of allegiance from the people. What is this oath of allegiance? Some Muslims went to the Kaffirs to take the signatures of the Kaffirs on a peace treaty. Hazrat Usman was one of those Muslims. They were late and the Muslims thought that perhaps their ambassador had been murdered. It was then that your Prophet sat beneath a Babool tree and there he took (Baiat Rizvi) an oath for pleasing God and his Prophet. That oath required the Mussalmans to love God and His Prophet..... God says that it was not the hand of a man but it was the hand of God Himself. To-day you become Pirs and take 'Baiat'. You come as followers of Satan and making yourselves Pirs you make the others your followers. Where was your Pirship when your Muslims were invited on the path of Satan? Where was your Pirship and Hashami blood?..... You give away the resting place of the Prophet into the hands of the Kafirs. You will say that those who did so were the descendants of the Sharif of Mecca and of Hassan and Hussain. You are also the offsprings of Hassan and Hussain. Do you know what happened there? The same which the Punjabi Policemen do with the Marwari women in the Nawabshah District. Where is Satan? The English say that they are not the Satans. Satans always hint. You want to destroy the tomb of the Prophet at the hint of the Collector and to-day you have

received the punishment for it. Brethren whatever happens happens under the orders of God. A Crown Prince of Austria goes to the city of Seashia where he is bombed by some of the people of the City. The result is that all Americans, the English, the Turks, and the Germans were destroyed The result was that all people got their rights. What did the Muslims get? Baitul Muqaddas, Najaf Ashraf, Karbala, Smyrna and Jaziratul Arab are all in the possession of the Kafirs. Our zamindars became slaves of Government. Our Hamid Ali is slave to the same extent as Sharif of Mecca if he cannot send a letter without being seen by the English. They have kept another minion Ibne Saud under their thumb. In case Sharif-i-Mecca makes any trouble, they will send Ibne Saud against him. On the one hand pension is given to the Sharif of Mecca and on the other hand pension is given to Ibne Saud. The Government have set them against each other. Bigamy is not allowed in their country but two paramours of a woman who may be the enemies of each other are tolerated. In Palestine, Syria, and Mesopotamia there was an army of Indians, two-thirds of which were Muslims at the time when English began to conquer that country. We got the fruit. The Hindu brethren of the Punjab enlisted in the Army. Sir Michael O'Dwyer rebuked Pandit Madhan Mohan Malaviya saying that the assistance rendered by the Punjab during the war was greater than what he did. Our Sikh brethren wrongly thought that this Government loved Gura Gobind Sahib. The Government took possession of their temples and Granth Sahib. The largest number of Army was given by the Punjab and Sikhs formed the bulk of it. God selected their Holy place and said that when bullets would be fired it would not be known who was injured. At Minianwala, Bosworth Smith sent for all the males of the village and then went to that village. He addressed the Punjabi Mussalman women in the following words:—"You veil your faces. You feel shame from us. You were sleeping with your husbands at night but you never told them that they should not rebel against the Government. All right, our police will come and will lift your skirts." O Policemen how much pride Bosworth who got the skirts of the women lifted, took in you! Now understand every Indian sister is your sister. We are called to the net of Simla. Our one fly went into the net and returned humming,.....O God! when I forget the unveiling of the women of Minianwala you may destroy the whole of India and destroy our nation.

TRIAL OF ALI BROTHERS & OTHERS.

all. Every one gets his due reward. How can you save yourself from this slavery? You should not go to prayers while you are drunk. Do you want to be out of slavery? (Cries of "Yes, Yes" from the audience). But how will you do that. Our Policemen are sitting here. If they see a person wearing a stripped vest they will take him to be prisoner and will again send him to Jail. When a prisoner is returned from Jail (*words which follow have been left out*) and our brethren are Mukhtiar-kars and Deputy Collectors. I might be abused once. They are abused many times by the Commissioner and Collector. Hamid Ali is also subjected to abuse. He every day gets abuses from the Judicial Secretary and others. He was congratulated when he passed the I.C.S Examination. I wish some one to ask him whether he is happy or not. I failed in the Civil Service Examination. My heart is distressed to see the destruction of Islam. But you Mr. Hamid Ali have become addicted to opium. You are given a taste of opium with Rs. 2000 or 3000. You are not prepared to leave that taste. I have nothing in my possession. God sends my food through the hands of you people. When I sleep I reflect if I have obeyed the orders of God and served Islam. Hamid Ali might never offer (Tahajjud) prayers because he has doubt in his mind.....The chains in our feet are the chains of Manchester. Leave this sign of slavery.....Cloth worth 60 Crores is imported from a country where not a single cotton seed is sown. The cotton of Sind and the cloth of Manchester are on your body. That cotton cloth comes here as fetters of your feet. Leave it at once. When you leave this be sure that England will sit down. To kill a person with hunger it is the worst kind of killing. Napoleon says that "an army marches on its belly." We have to make you (evidently refers to Englishmen) march on your belly in Manchester. But we know that those people will march on their bellies when the 60 crores of rupees are stopped from being sent to Manchester. They will come to know their position. One crore of rupees has been collected in India. Did any one of you believe that this sum would be collected in India. But Mahatma believed it. He believed India and India believed him. Now how many of you believe that the Manchester cloth will be stopped? If you have to get your sisters and mothers disgraced in Minianwalla then you can wear the Manchester cloth. If you derive profit from the foreign cloth it will be prostitution of your mothers and sisters. We have got Mills. Let the Mill cloth be used by the

poor. If you will not charge reasonable profit (the Mill-owners) your condition will be the same as that of Manchester when it will be killed. We can leave the Mill cloth in the same way as the Manchester cloth. Will the Bombay Mill-owners who have Bungalows and Khaskhastaties and those who reside on Ridge Road and on Malbar unduly increase the price of cloth? We have never caused a single strike in the mills. If they will raise the price of cloth I will go to all the mills one by one and will cause strikes. People say that the Mahatma is mad when he tells us to wear such cloth. He hates the country? He hates the greed and dishonesty which has been brought here by the machinery of England. If the sucking of blood by Manchester is bad the same rule should hold good in the case of Bombay and Ahmedabad. The remedy of this lies in our hands. There is one remedy for all this, and that is that you should feel disgust for slavery. Hate the slavery of the English, of the Afghans, of the Muslims, of Gandhi, of Mahomed Ali and Shaikat Ali. When once you entertain this feeling of disgust you will cease to fear Thomas.....The second thing is the Hindu Muslim unity. The third thing is the membership of the Congress. The fourth thing is Swadeshism. Along with the Congress membership is the Tilak Swaraj Fund. Tilak was our greatest political Guru. He was a Hero. When he died his last word was "Swaraj for India". I will consider that the subscription is a real subscription when I will hear that a rich man became poor by subscribing towards the Tilak Swaraj Fund. You are always ready for profit or loss. Can you not afford to become beggars for the sake of such a profit? In Bombay Chimanlal has given much money. Our shoulders were tired with the collected ornaments and money in Bombay, where the subscription has been 81 lakhs. In Swaraj we want the Rule of every one whether he be Hindu, Muslim or a Sikh.....To-day the honour of your sisters and you own honour demands that you should give money. You should put off the jail cloth (foreign cloth). You should get freedom on the first of August which is the death anniversary of Mahatma Tilak. What should I say about Smyrna? There is a blot on your name to-day. That which has been written by Karamula Katibin (two angels who do the doings of a man) will never be scratched off and that which has been written by our these brethren (pointing to the C. I. D. and other reporters) will be obliterated. That angel has written that you have

TRIAL OF ALI BROTHERS & OTHERS

destroyed the generation of the Turks. There are orphans still present there. The sisters of the Turks are your sisters. The Greeks (satellites of the English) are inflicting misery on them. A critical time has come for your sisters. If those sisters are your sisters you should give everything for them.

True Translation

Sd. MAHMUD SHAH,

D. S. P.

Thar and Parker.



APPENDIX 'D'

MOULANA MAHOMED ALI'S

MEMORANDUM

on

Judge Kennedy's Summing up

to

The Jury.

APPENDIX 'D'

A note on the Judgment of the Judicial Commissioner of Sind in the Sessions Case No. 33 of 1921.

THE KING EMPEROR

VERSUS

MAHOMED ALI & Six OTHERS.

BY MAHOMED ALI.

I am preparing a separate memorandum with regard to the extraordinary summing up of the Judicial Commissioner in this case, which was in effect, and may well have also been meant to be, the judgment itself, and much else in addition. I therefore confine myself here to the judgment which I may explain was never delivered in the Court in our presence or to our knowledge and of the existence of which we have learnt for the first time from Mr. Mozem Ali who secured and brought to us a copy.

It is necessary to say something about it, because the Judge, who had acted in a most unfair manner throughout the trial, and had in fact showed his prejudice even before the committal to the Sessions by coming to inspect the Khalikdina Hall preparatory to holding the Sessions Trial there, has introduced an element of dishonesty even into the unpromising material provided by the opinion of a majority of the Jury acting as Assessors with regard to the minor charges under Section 505 & 117 I. P. C.

It will be remembered that the Judicial Commissioner had obviously summed up for a conviction of us for Criminal Conspiracy to attempt to seduce the troops from their allegiance or duty and had no less than three times told the Jurors that in his opinion there was such an agreement as made it a Criminal conspiracy, and that some of the accused, (clearly meaning *all*, except Sri Shanker Acharya, whom he equally clearly wanted to be acquitted) were members of that Criminal Conspiracy, although he had to admit that there was no evidence of a traitor or spy who had acquainted himself with the inner workings of the Conspiracy, had been admitted to the secret counsels of the chiefs thereof, and had detailed in Court what he had learnt, and that there was little evidence obtained by seizure of papers and correspond-

TRIAL OF ALI BROTHERS & OTHERS.

ence at the Head Quarters of the Conspiracy or from the possession of some leading persons in the Conspiracy, though seizures both legal and illegal were not wanting. He had come to the conclusion that we were criminal conspirators who intended to seduce the troops, because he thought there was evidence of "a common course of conduct," of the adoption of "a definite line of policy," of our having spoken "in favour of it" and having "acted in a way which is explicable *best* by supposing"; the italics are mine and are meant to emphasise that in the judge's opinion it is not necessary that these speeches and actions should be explicable *solely* on that supposition "that we had already agreed to support and carry out such policy." Not one word was said by him to the Jury in such a lengthy charge about any benefit of doubt accruing to the accused, even when he negatively expressed the absence of an impossibility—he would go no further—that the leaflets received in some Regiments, constituting the only attempt to seduce the troops in pursuance of our conspiracy, may not have been sent by us or any co-conspirator of ours, even though without our knowledge, but by some other—"Some enemy of England who was not a member of the conspiracy and *who was probably a Hindu*"! All this, however, proved much ado about nothing, for the Jury, consisting of one European and 2 Anglo-Indian Christians and 2 Hindus, employed though they were in the service of European firms, and in two cases the Greek Firm of Ralli Brothers, or in the service of Government itself, had the courage of their convictions and by their unanimous verdict of "Not Guilty" brushed aside all these cobwebs so laboriously spun by the Judicial Commissioner to entrap them. They believed neither in the existence of a criminal conspiracy to seduce the troops of which we were members, nor connected us or any co-conspirator with the so called attempt made in pursuance of such conspiracy. Thus at a stroke the two main charges, one of which was punishable with seven years imprisonment and the other with transportation for life, fell through. Therefore there only remained the minor charges of making a statement with intent to cause, or which was likely to cause the troops to disregard or fail in their military duty and of instigating the public generally, or at least more than 10 persons to commit the same offence, one of which was punishable with two years imprisonment and the other with three years. In both these cases the Jury acted only as Assessors and the Judge could entirely disregard their opinion,

APPENDIX 'D'

being to this day in defenceless India both the judge and the Jury in his own person in these and many other such cases. As I had said, the jurors as assessors were here only bigamous wives of the judge in terms of the Arab proverb! The judge could, therefore, reassert himself and vindicate the all but omnipotence of the bureaucratic judiciary in India, and he certainly did assert himself to this extent that he not only convicted us, but also awarded us in one case the maximum, and in the other almost the maximum sentence that the law allowed. And what is more, he edged in the words "agreed" and "conspired" into the judgment when convicting the other accused under Section 109 read with Sections 505 and 117 respectively, when that Section only entitled him to say that they had "abettled" me in committing the offences punishable under the two latter Sections. Well, I do not grudge him the satisfaction of awarding almost the maximum sentence by way of a *consolatum*, or what they would call at Cambridge a "Wooden Spoon". But what I do grudge him is another "agreement", much more criminal than ours, in which he seeks to incriminate the majority of the assessors as co-conspirators. He says "I agree with the majority of the assessors and find that accused No. 1 Mahomed Ali made a statement on the 9th July 1921 at Karachi calculated to cause the Mussalman Officers and Soldiers in the Army of His Majesty to disregard or fail in their duty in that as he made it with the intention of causing such an effect, the truth of it is not material. I therefore find him guilty of an offence under 505 I. P. C.". The Judicial Commissioner is welcome to find me guilty of any offence under the Indian Penal Code or under any other Code or "Law of the Land", but he cannot make the majority of the assessors a party to this transaction. Now it is clear that one of the two Hindu Jurors declared all of us "Not Guilty" of every one of the offence with which we had been charged, while the other, who was the foreman of the Jury, gave the following verdict with which the three Christian Jurors agreed:—"Mr. Ramchand Tulsidas is of opinion that the charge No. 3 is proved against Mahomed Ali because the resolution No. 6 was likely to cause the Muslim soldiers to fail in their duty.....I have not taken into account the deep religious feelings of the accused". Now, this is the necessary extract from the copy of "Assessors Opinion"

supplied by the Court and purports to have been taken down by the Judicial Commissioner himself. But what I heard the foreman declare in Court was that "in giving this verdict I have not taken into consideration that this was the deep religious conviction of the accused" and I admit that he may have said instead: "in giving this verdict I have not taken into consideration the deep religious conviction of the accused". In any case the word used was "conviction" and not "feeling" and I can only account for the alteration by supposing that the judge wanted to get over the difficulty caused by the "Exception" to section 505 I. P. C., and my "deep religious conviction" would have brought me under it when the Jury disavowed any criminal intention. But even as it is, I come under that exception, and my conviction though it may be perfectly legal so long as the judge and not the jury is "the monarch of all he surveys" cannot nevertheless be based, as it is here sought to be, on an *agreement* with the majority of the jurors acting as assessors. Indeed it is based on the clearest possible *disagreement* as I shall presently prove. The relevant portion of Section 505 is this:—"Whoever makes a statement with intent to cause, or which is likely to cause, any Officer, Soldier etc, to disregard or fail in his duty as such shall be punished with imprisonment which may extend to 2 years, or with fine or with both. *Exception*:—"It does not amount to an offence within the meaning of this Section when the person making any such statement had reasonable grounds for believing that such statement is true and makes it without any such intent as aforesaid". Now the common ground between us and the prosecution—or the judge—is that a statement was made and it was contained in a resolution—introduced by me as President of the Karachi Khilafat Conference, moved by another of the accused, and seconded by a third and supported in speeches by two others out of those convicted and passed with the consent of yet another. But the prosecution charged us with making a statement with the intent to cause the Muslim soldier in the Army to disregard or fail in his duty as such, or, in the alternative, asserted that *it was likely* to produce this effect. If the intention is not proved and even if the likelihood of

APPENDIX 'D'

such an effect is proved it is open to the accused to prove that he had "reasonable grounds for believing that such statement is true", and if he can establish that, he comes under the exception to the section, and his making such a statement "does not amount to an offence within the meaning of this section". Now what the majority of the jury as assessors did was to declare only that "the resolution No. 6 was likely to cause the Muslim soldiers to fail in their duty". If, therefore, I had established that I had reasonable grounds for believing that the statement in resolution 6 which was the subject of the charge was *true*, I would have been "Not guilty" of this charge as well. It was this possibility which the judge foresaw and with remarkable obstinacy endeavoured for more than an hour to prevent my referring in my address to the jury to the citations from the Koran and the authentic traditions of the Prophet in my statement made in the Lower Court, in support of my claim that I had reasonable grounds for believing the statement contained in the resolution 6 to be the true enunciation of an Islamic religious doctrine. At the very outset the judge had objected to my explaining to the Jury what constituted the sources of Islamic Law and would not let me explain what great care had been taken by the traditionists to ascertain the authenticity of the Prophet's traditions and how rigid were the tests imposed by them as compared with the tests applied by Christian theologians even with regard to the four generally accepted gospels of the New Testament.

As I was myself loth to do anything that might savour of indulging in religious comparisons, I had not then persisted but when I was dealing with the charge under section 505, and had yet to deal with the one under section 117, and the judge said "Never mind the Prophet", and on my asking him to withdraw this insolent and blasphemous expression, he insisted on my stopping altogether, I saw what he was aiming at, and persisted in the exercise of my right as an accused person even to the extent of defying the Court. I succeeded in my persistence, but I had already had to wrangle with the judge for over an hour, and so contented myself with a very brief citation of the verses of the Quran and the Traditions of the Prophet, and barely touched on the judicial pronouncements of Islamic Juris—consults in the early days of Islam or of later day Ulema, like the late Shah Abdul

TRIAL OF ALL BROTHERS & OTHERS.

Aziz Sahib, the late Moulana Abdul Havy Sahib and Moulana Ashraf Ali Sahib who is still living. Nevertheless, it was enough to convince the jurors that the statement for which I was charged under section 505 was part of my deep religious convictions, and the foreman, speaking for four of the five jurymen, gave expression to this conviction when giving the verdict of "Guilty", as directed by the judge, while the remaining 5th juror gave the verdict of "Not Guilty". The judge had already misdirected the jury on the point of paying regard to or totally disregarding our religious convictions, and even if he may be considered to be right—which I deny—on the general proposition, that in answer to a charge of breaking the law of the Land it is not sufficient to raise and prove the plea "that the act which is alleged to be an offence is one which is enjoined by the religion of the accused; he can never be deemed to be right in his assertion that it is immaterial and irrelevant what the religious conviction of the accused is if that religious conviction is a statement for which he is charged under section 505. There, at least, it is both material and relevant, for if it is a man's deep religious conviction, and proves that the conviction is based on the universally recognized authoritative sources of his religion, as I sought to do, then he proves that he had reasonable grounds for believing that the statement he was making was true, and that brings him under the exception to Section 505, if *Criminal intention* is not proved against him. In his summing up, the judge said in one place: "The question therefore whether Mahomedan religion renders it unlawful for a Muslim to kill another Muslim and whether the accused were bound to propagate that doctrine, or whether the accused genuinely believed that they were so bound, and that such killing is unlawful, are really not at all relevant to the case." He further admits that "I endeavoured to stop them... because I did not wish to confuse the issues and did not wish to allow the present trial to be a means of propagating doctrines which I consider dangerous and unsound." It was in this trial that we learnt for the first time that an English Christian Judge, could consider himself competent to declare what was sound and safe Islamic doctrine and what unsound and dangerous, and to characterise the fatwa of 500 Ulama in every place where that word occurs in his summing up as "the alleged Fatwa" and the Ulama themselves as "so called Ulama." But even if—we disregard this characteristically civilian claim to omni-

science, we cannot leave un-noticed the unsoundness of his own doctrine with regard to "the Law of the Land", and his own inconsistencies with regard to those doctrines. For, in another place in the same argument he says with regard to the charge under section 505, "The accused admits having made that statement, but he says it is a true statement. *That may be.* But that does not exonerate him from guilt if he intended that the making of such a statement should induce Moslem soldiers to fail in their duty. *It is only when there is no such intent that the making of a true statement calculated to act that way on troops is excusable.*" The Italics are mine and are meant to emphasize that at last the judge has accepted my contention and resiled from the position he has taken up throughout the trial that the whole of my argument based on our religion and our beliefs was both irrelevant and immaterial. How different is this reluctant admission of relevance from the cock-sure certainty of the following which occurs elsewhere in the same charge to the Jury: "If the proposition set forth by the accused be as alleged namely, that it is unlawful for any muslim to serve in the British armies at the present juncture and *if it be religiously true and incontestable* and if the accused continued to bring it under the notice of the troops, then greater is the guilt of the accused because the troops were more likely to be seduced than if it were wholly erroneous and absurd." In other words the greater the truth of the statement the greater the guilt; but there is unfortunately that exception to section 505 which makes it "excusable". Well, one juror declared us to be "Not Guilty" of this charge and the four others did not say merely that we were "Guilty," but clearly expressed that the mere likelihood of our statement "acting that way on troops" was proved, and that they had not taken into account our deep religious convictions on the subject. Clearly a case of the jury intimating to the judge that they had found us guilty only because he had misdirected them not to take into account our deep religious convictions, and that if it was an offence to make a statement based on those deep religious convictions "when there is no such intent," and the statement is only "calculated to act that way on troops," then we were guilty, otherwise it was, in his own phraseology "excusable." If this was not implied, and almost explicitly declared, why did not the Foreman merely say: "Guilty"? In view of a clear declaration of the majority of the jury about disregard of our religious convictions, and the proof

TRIAL OF ALL BROTHERS & OTHERS.

guilty of likelihood of a particular effect as against criminal intent, is it not palpably wrong of the judge to say in his judgment: "I agree with the opinion of the assessors and find the accused No. 1 Mahomed Ali made a statement on the 9th July 1921 at Karachi calculated to cause the Mussalman Officers and soldiers in the army of His Majesty to *disregard* or fail in their duty and that *as he made it with the intention of causing such an effect*, the truth of it is not material. I therefore find him guilty of an offence under section 505 I. P. C." Had the Judicial Commissioner said he had disagreed with the assessors in their findings of fact I would have had no grievance. But for him to seek cover behind the four assessors—the husband seeking cover behind four of his wives, to use the trope of the Arab proverb—is not a very manly thing to do and not a very edifying or encouraging spectacle. But perhaps he does not think it injudicious to insert a personal opinion where the strict letter of the law would not have served his purpose as did a spiritual forbear of his who in the olden days, when the jury could not leave their retiring Chamber before their verdict was given even to partake of much needed food or drink, was approached by a thirsty juror who wanted to go out and—have not any alcoholic beverage—but a glass of *water*. That prototype of the Judicial Commissioner of Sind is reported to have said after some judicious cogitation: "Well water is clearly not food, and *personally* I did not think it is *much* of a *drink*! You can go." The majority of the assessors had declared that our statement was true and was likely to affect the troops, and that sufficed for the judge, for *personally he thought "intention was proved."*

There is one point more that need be mentioned with regard to the charge under section 505. The resolution as framed and passed at the Conference only purported to declare the Law of Islam with regard to the Army in the present circumstances, viz. that it was religiously forbidden to continue in it, join it or recruit for it. It did not call upon the Mussalman soldiers to disregard or fail in their duty as such, and while I in addressing the jury had in passing suggested what the Muslim soldiers could do, without demanding immediate discharge or deserting, Dr. Kitchlew had laid considerable stress upon the same idea, the judge should not have ignored so important a point in favour of the accused. The Mussalman soldiers of the Army could well have gone with the Ulama's Fatwa and the resolutions passed at the meeting of the

Jamiat-ul-Ulema and at the Gokak and Karachi Conferences, and asked their officers to approach Government with a view to have a stop put to the most reprehensible practice of sending Muslim soldiers to fight against Muslims and kill them "without just cause" as defined by Islamic Law and thereby destroy the temporal power of Islam, while rebelling against the Commander of the Faithful, the Successor of their beloved Prophet. This very practical alternative, entirely within the realm of his "Law of the Land",— was completely ignored by the judge in his lengthy summing up, while he roamed over trackless deserts of supposition and make-believe in Islamic history and wandered over uncharted seas of guess and conjecture in Islamic theology. But it is manifest that this neglect was not through forgetfulness. It was studied and deliberate, as can easily be judged from his careful elimination of the name of the Fund for which Moulana Shaukat Ali was alleged to have appealed in his alleged speech of ten seconds duration on the 17th June at Poona. He is alleged to have said: "The fund collected from Hindus and Mussalmans will be termed "Discharged Soldiers' Fund" and the soldiers who will leave service will be paid out of (this fund). In his carefully worded summing up which he had typed at leisure during the Devali Holidays the judge said: "Then in June accused 1, 3 and 7 went to the large Military Station of Poona where a meeting was held which these accused attended, and where the accused 7 Shaukat Ali made a speech in which he said that a Fund was being established to help in the support of soldiers who left their service." Had the judge taken into consideration the fact that while welcoming and congratulating every soldier or policeman who leaves the Army or the police force and secures his discharge, as we would welcome and congratulate any civil employee of a Government with which we are non-co-operating, who resigns service, no responsible body in India, national or communal, and no recognized leader of public opinion had yet called upon the soldiers and policemen to desert, any more than upon civil employees of government to leave their service immediately, and had the judge further taken into consideration the fact that a "DISCHARGED SOLDIERS' FUND" is very different thing from a "Deserter's Fund" or even merely "a Fund to help in the support of soldiers who left their service", he could have had no alternative but to believe that, although we maintained and relied upon the supremacy

TRIAL OF ALI BROTHERS & OTHERS.

of religious Law, and sought the protection of the Law of the Land, pledged to us by Queen Victoria and her successors in their proclamations, for all actions enjoined on us by our religious Law, we had not yet resorted to Civil disobedience, and had so far broken no Law of the Land either, all that we had done being to declare that the Law of Islam made service in the British Army in existing circumstances '*Haram*' or religiously forbidden, and that it was the duty of the soldiers to take early steps to obtain their discharge, or represent matters to their superiors with a view to have the character of their military duty altered in accordance with Islamic Law. Angora, and not the Army was the main consideration, and ultimate object, the Army being only an incidental consideration as I had clearly explained in my statement in the Lower Court. The Muslim Officers and soldiers could well do what other Mussalmans in India were doing, namely bring pressure to bear on Government with a view to prevent a re-opening of hostilities against the Angora Government and the destruction of the remnants of Islam's temporal power, and to make government understand that it was never a Muslim soldier's bargain with Government that he would kill Muslims without just cause "as defined by the *Shariat* and therefore no part of "his duty as such". Not one word of this appears in the summing up and the judge misdirected the Jury with a view to obtain a verdict of "Guilty."

But his sins are not only those of omission. They include sins of commission as well. It is only too well known that the highest Judicial Officer in Sind made the biggest blunder which a Judge in a Criminal Case could commit by taking away the right of the Accused to have an opportunity to explain any circumstances appearing in the evidence against them. This opportunity section 342 of Criminal Procedure Code had made it obligatory upon him to afford to the accused by questioning them generally on the case after the witnesses for the prosecution had been examined and before they were called on for their defence. The Select Committee on the Bill of Act X of 1902 had clearly observed in its report that "the object of empowering a judge to examine an accused person is to give the accused an opportunity of explaining any circumstances which may tend to exonerate him, and thus to enable the Court, in a case where the accused is unaided, to examine the witnesses in his interest. It was never intended that the Court should examine the accused with a view to elicit from him some statet-

ment which would lead to his conviction. We have therefore limited the power of interrogating the accused by adding to the first paragraph of sec. 342, the words 'for the purpose of enabling the accused to explain any circumstances appearing in the evidence against him'. We think the accused should *always* have this opportunity of explaining, and we have therefore *required* the Court to question him *generally* for that purpose before he enters on his defence." That is why it has been ruled that "*the Session Court is not to establish a Court of Inquisition, and to force a prisoner to convict himself by making some criminalising admissions, after a score of searching questions the exact effect of which he may not readily comprehend*".

But while the judge, inspite of the novel but necessary intervention of the Public Prosecutor in support of our claim to make a statement on the case generally, without which all his labours would have been lost and the entire proceedings vitiated, refused to give us the opportunity to place on record our explanation of the doubtful circumstances in evidence against us, he nevertheless took advantage of the same section 342, which gave us the right we wished to exercise to put to us certain questions with a view to supply the missing links in the prosecution evidence and fill the gaps it had left, just as the Magistrate in the Lower Court had done.

If any one doubts that, let him go over the questions put to me. They were intended to obtain from me an admission that I had approved of the resolution proposed by Maulana Hussain Ahmed Sahib when all that was in evidence against me was that as the President I had read it out to the audience as I had done in every other case, and as every Chairman of a Meeting has to do whether he be himself for the motion or against it. More than that, the Judicial Commissioner fished laboriously for an answer from me to the effect that we intended the soldiers to disregard or fail in their duty, although all he could get was the admission that I *did* hope it would have *some* effect though the Indian Soldiers were segregated in an unprecedented manner from all other human society and were not likely to learn of the resolution in many cases—and that the effect likely to be produced on them would in all probability be much less than it would have been 50 years ago when they were not so badly demoralized as they were to-day. The last two statements had not been taken down by the judge at first,

TRIAL OF ALI BROTHERS & OTHERS.

though Section 864 (1) makes it obligatory that every answer given by the accused shall be recorded in full, and it was I who had insisted on their insertion if the judge wanted me to sign my answers. But having been thus forced to incorporate them, he now turns and twists them to suit his own purpose and in his summing up says: "Here the question therefore would be not whether Mahomed Ali believed the statement to be true, but whether he made it with the sincere wish to cause his brethren to repent or with the wicked intention of making them mutiny or desert. He himself seems to have no doubt on the point. His only regret is that the "troops are not yet contaminated and that there is at present no chance of a mutiny on the scale of 1857." Prejudice is like one of those convex or concave glasses that turn slim men into a round-bellied mass of adipose tissue and fat men into elongated skeletons, and it was through some such glass or still more distorting one that he looked through when he metamorphosed my regret at the general demoralization of the once religious Indian society, including the soldiers, into a regret that the horrors of 1857 could not be enacted 64 years later on a gigantic scale.

But the jury refused to swallow the bait. The net was spread in vain in the sight of the jury birds. They did not say that "the wicked intention" was proved; they referred only to the likelihood and that coupled with our deep religious convictions which they said they had not taken into account—brought us—if the judge even at that stage repented himself of his misdirection,—under the protecting wings of the exception. But far from repenting, the judge sought cover behind a non-existent agreement with the majority of the jury and convicted.

But look at the artistic manner in which he brings his favourite "Conspiracy" and "Agreement" again. The only facts proved were that I, as President, had done a President's customary duty and read out the Resolution to the audience, and after emphasising its obvious importance, I had called upon Maulana Hussain Ahmed Sahib to move it. The Maulana had made a long speech containing a sustained religious argument which could have left no doubt in any one's mind

about the need of the resolution he was moving. Doctor Kitchley in another powerful speech, characteristically more "modern" and "mundane" had seconded it. Pir Ghulam Mujaddid Sahib had translated the Resolution into Sindhi, and in another moving speech in the same language had commended to the acceptance of the audience in Sindhi. Maulana Nisar Ahmed Sahib had, in further supporting it, made up for brevity by importing some of the heat of the sincere preacher's heart that consorted well with a fever that had imported unusual heat to his body, that day. The Sri Shanker Acharya, prompted by his friend Dr. Kitchley and by his own sympathy with a religious people made to suffer for their faith had expressed the desire to make a few observations, to which I had at first demurred owing to the lateness of the hour. But when I had been informed that he desired to give his ecclesiastical support to the warning held out by us in the resolution to the Government, I had requested him to speak, even at that late stage, and when he had given expression to his general sympathy and support, I had wound up the proceedings with asking those who supported the Resolution to stand up to mark the solemnity of so solemn a Covenant as that which, in certain contingencies, bound them to declare the independance of India and establish a Republic. When all, including not only my brother, who had not spoken on the Resolution, but even the Police Officers and Magistrate on duty, and the C. I. D. reporters, had stood up and passed the Resolution, I had appealed to God to give every one present the strength to carry out his solemn resolve.

Thus, mine was the customary role of the President of a large assembly resolving upon a solemn duty solemnly accepted and acknowledged. But what does the judgment make it? "Agreeing also with the majority of the assessors"—the inevitable cover is sought here too—"I am of opinion", says the Judicial Commissioner, "that all the other accused with the exception of accused No. 6 *conspired with Mahomed Ali and agreed with him that he should make the statement that he did make with the intention of producing such an effect on the Mussalman Officers and Soldiers in the army of His Majesty*". And let us look at the summing up on which the judgment that was to be had cast its sinister shadow ahead. It says: "The other accused are charged with having *conspired with accused No. 1 to commit the said offence This conspiracy is not the far-reaching conspiracy referred to in the previous*

TRIAL OF ALI BROTHERS & OTHERS.

charges. If the other accused or any one of them agreed with Mahomed Ali that such an opinion should be published *even 5 minutes before the uttering of such opinion with criminal intent*, then they are clearly guilty of conspiring with him. Now all the accused were there in Karachi and had opportunities of talking over the matter with Mahomed Ali, and they showed by their signs"—What signs? I ask—and speeches that they approved of his formulating that opinion. *It is not therefore a very violent deduction that they agreed with him that he should utter it and they should support it.*" Nothing could well be a more fantastic travesty of the truth. The section under which the other accused were charged only refers to "Whoever abets any offence", and we had accordingly concluded that we were all charged with the offence of making the declaration contained in the resolution at the same time and place and were thus made co-accused in one and the same trail, the transaction being the same, and that since I happened to read out the Resolution, and thus technically made the alleged criminal statement first, I was designated as Accused No. 1, and those who had moved, seconded and supported it, were designated accused Nos. 2, 3, 4, 5 and 6 *seriatim* in the order in which, they had spoken on the resolution while my brother even though he had not spoken on the Resolution was roped in, only because the Government had in reality wanted to punish "The Ali Brothers" and none others. The rest of the accused could not be left out with any decency even though one of them was not a Mussalman whom alone Government had been advised by O' Dyer to tackle and whom after the Moplah affair they found an excellent opportunity of isolating. We understood "abettment" under section 109 to mean taking a part jointly, and not *instigation*, nor even *agreement* to support each other, except such as is implied on speaking in support of a resolution. So little did we think that the judge had another conspiracy up his sleeves, though not, as he calls it "the far reaching conspiracy referred to in previous charges"—and that when we read the charges under section 109 read with section 505 & 117 and found the words "which he (Mahomed Ali) committed in pursuance of that Conspiracy". I noted on the charge sheet, the question "*which Conspiracy?*" being still doubtful whether the charge did or did not refer to "the far-reaching conspiracy referred to in previous charges." The charges had at no stage been explained to us and I had complained of having been confused by the joinder of so many charges without

APPENDIX 'D'

any explanation from the prosecution, Magistrate or Judge though "the Law of the Land" made such explanation a mandatory condition. And it is *only now* that I really come to understand the charges, looked up in jail as a convict, on receipt of copy of the summing up and of the so called judgement which defies description in any thing approaching legal language.

Now, there was no evidence of any agreement "even 5 minutes before" I read out the resolution that I should *read* it, and thus *utter the opinion* of the Conspirators. What is more, there was not only no evidence on record but such an agreement itself did not exist. Any one who knows anything about Public Meetings knows that it is optional for the person presiding there-at to read out the Resolution to be moved or merely to call upon the mover to move it and in doing so read it out himself, and it was a pure accident that I chose to read out the Resolutions, and this one among the rest. What, I ask, would have happened if I had *not* read it out? Would I, Accused No. 1, have got out of the trial? Not that perhaps, for the fate of my brother tells me otherwise; but at least the unsought for and unexpected eminence of being Accused No. 1, would have fallen to the lot of another! In that case, however on precisely the same evidence—or, rather, lack of it—would the Judge have declared in his summing up that "Accused No. 1 Hussain Ahmed" was to move the resolution and the other Accused including "No. 6 (or may be No. 7) Mahomed Ali" "had agreed with him that he should utter it and they should support it"? That is what comes of trying to misdirect the Jury to convict without a jot or little of evidence, for, evidence there was none, except that all the Accused were there in Karachi and had opportunities of talking over the matter with Mahomed Ali." For, although we know that most of the accused spoke at the Conference, there is nothing in their speeches to prove such a Criminal agreement as the "Law of the Land" requires before convicting the accused, and it is entirely beyond us to show anything of the mysterious "signs" to which the judge refers in his summing up.

To prove an agreement of any sort, it was not merely necessary to prove that "all the accused were there in Karachi and had opportunities of talking over the matter with Mahomed Ali". It should have been proved that all of them *did* meet and *talk* and *at one time or*

TRIAL OF ALI BROTHERS & OTHERS.

another came to an agreement to commit an offence with the requisite Criminal intention, and the least that the prosecution should have done was to give some evidence that the Subjects Committee for which Provincial Elections had been called for by me and which was announced to take place on the 9th July, did meet—that all the accused, or at least some of them, were members of it, and were actually present when the particular resolution came to be settled and all agreed that it should be placed before the meeting and passed! The only evidence that is on record is that after the time for which the Subjects Committee had been announced, Moulana Shoukat Ali's voice was heard outside the building by some policemen on duty and they recognised it as his—forsooth, "because he is fat!" If on such evidence people could be convicted and sentenced to undergo rigorous imprisonment for the maximum period provided by Law, Poor Old Sir John Falstaff and his goodly company at Eastcheap would have been guilty of every offence ever committed under the sun even if they had been as pious as the archangels, and not the sturdy vagabonds that they were! Nothing could be a better advertisement for "Antipon" or "Mota-lene" than this that its use would make fat people's voice indistinguishable even to those living Dictaphones the policemen of Karachi, and they could shout high treason at the top of their voices, with impunity. As I had pointed out, when the public prosecutor was addressing the Jury, there was not even evidence to show that my brother was in the room in which the Subjects Committee was meeting, much less that he spoke at that meeting, and still less that he spoke on this particular Resolution or in favour of it.

And since the Public Prosecutor has confessed that the accused know much more than the prosecution, may I tell him and the judge that I have no recollection of seeing any of the accused at the Subjects Committee Meeting when this resolution was being settled except my brother, who never spoke on it, at any rate in a voice to be specially noted in the street, that it was I who drafted it with the consent of the members present and that the only discussion centred round the concurrence of the Indian National Congress with regard to resort to Civil Disobedience, when that contingency arose. And of course, there was no such agreement, Criminal or otherwise, except that employed in the passage of the Resolution in the Subjects Committee. Is it or is it not therefore "a very violent deduction" to conclude from the absence of all evidence

that guilt is proved to hilt? As for the evidence of Moulana Shoukat Ali's fat voice, of course, that much the C. I. D. men had to swear or how could the senior "Ali brother" be roped in and punished, when he committed the unforgiveable sin of silence at the Conference itself, though while even "unwanted" Jagat Guru had contrived, against the President's first decision to speak :

The charge under section 117 need not detain me. If that under section 505 has failed as it has, and the making of a true statement reasonably believed to be true without Criminal intention is no offence, as it is not the abetting of it by the Public generally or by any number of persons exceeding 10 cannot be an offence. But even if we were guilty of an offence under Section 505, the resolution itself—which is admitted to be *all* the evidence on the point—proves that we did *not* abet the commission of offence under Section 505 by any body else. The Central Khilafat Committee's copy of the Resolution written at the time of the Conference itself on the Reception Committee's letter-paper, supported by the *verbatim* report of the C. I. D. Inspector Lakht Hussain proves that all that we asked of Mussalmans generally and of Muslim Ulamas in particular was, that they should bring home to the Muslim soldiers "is baah men Shariat ke ahkam" or "the Commands of Islamic Law in respect of this matter," as the judge himself admits. But no, he cannot exculpate us on that account, but must support the mis-translation contained in the Government's order sanctioning the prosecution, by referring to our own conceptions of what the Shariat was. What ever our conceptions, we did *not* call upon any one to preach those, but "*the* Commandments of Islamic Law in respect of this matter" pure and simple, and therefore no offence was committed, unless it be an offence to preach Islamic Law itself to Muslim Soldiers of His Majesty, by the Grace of God, Defender of the Faith. Let this interminable wrangling about section or exception, liklihood, intention, true statements and false, cease, for the *case* was really proved even before we were arrested or charged. We stood for the supremacy of God's Law and some section or other of Man's Law was bound to penalise that religious conviction, and punish us, the Queen's proclamation and the King's notwithstanding! As the late Akbar wrote with some prescience.

TRIAL OF ALI BROTHERS & OTHERS.

کیا خبر کونسا قانون سزا دیگا نہیں ہم یہ الزام ہے مذہب کی طرفداری کا

“Heaven knows which law would punish us; we stand charged with partiality towards religion.”

And what is one to say of the manner in which the judge has defined “the Law of the Land”—Let the public prosecutor do what he can do to bring it within the four corners of the Criminal Procedure Code. But then he may as well square the circle!

MAHOMED ALI.

WITH THE NAME OF GOD THE MOST MERCIFUL AND THE
MOST COMPASSIONATE NONE SHALL PREVAIL BUT GOD.

A memorandum on the Judicial Commissioner's Charge to the Jury

In Sessions Case No. 33 of 1921.

THE KING EMPEROR

Versus

MAHOMED ALI & SIX OTHERS.

BY MAHOMED ALI.

The charge of the Judicial Commissioner of Sind to the Jury in our trial is a fairly lengthy document, extending over 28 foolscap pages of closely typed written matter aggregating 13000 words and covers an unusually wide area, some of it being virgin soil, without any trace even of a solitary judicial furrow. But it is none the less interesting even if it is neither a purely judicial nor a wholly judicious document.

Nearly five pages are taken up by a preliminary discussion of diverse matters including the denial of undeniable irregularities in the Committing Magistrate's Court and during the Sessions trial

APPENDIX 'B'

itself, the Turcophil and Phil-Hellene points of view regarding the present situation in the Turkish Empire, and the inevitable praise of Co-operation and tirade against Non-Co-operation always to be expected from a Civilian who despised and rejected co-operation when it was offered and hungers after it now that it is being withheld. A couple of pages are devoted to the explanation of the Law regarding Conspiracy and nearly five to the various kinds of evidence that may prove it and to the kind of evidence that is actually on record. More than two pages are taken up by the Judge's suppositions regarding the origin and growth of the Khilafat agitation, based on nothing more than unaided conjecture, and unrelieved by a scintilla of evidence that might or might not have been produced by the matter-of-fact and some-what unimaginative Public Prosecutor, but that was never actually produced. A page is devoted to the discussion of the Law and the evidence regarding the alleged attempt to seduce the troops by circulating a leaflet, and a little over two pages to the discussion of the Law and the evidence against me regarding the offences under Sections 505 and 117 and abetments thereof under section 109 by the other Accused, while recapitulation takes up another page. Against all this, less than a couple of pages deal with the explanation of their conduct offered by the accused, and some space even out of this is taken up by the judge's adverse comments thereon.

But where the judge has not been guilty of economy, not to say niggardliness, and has, on the contrary, been lavish of space, is in dealing with the plea of religious commandments, where he has indulged in his historical and theological *obiter dicta* to his heart's content, and has distributed the largess of bad history and worse theology as a thriftless almoner, not sparing even the Ulema and Missionaries of Islam and pontifical pronouncement on the proper field for their missionary efforts, as distinct from endeavours to misguide the Muslim soldiers like feckless "busybodies", if not "perverse fanatics".

I have dealt elsewhere with the scanty material furnished by this charge to the Jury regarding the cases against me under section 505 and 117 and their abetment by the other Accused under 109, and

since all the efforts of the judge to secure from the Jury a verdict of Guilty on the charge of conspiracy under Section 120B/115 read with 131 have failed so ignominiously; while there never seemed any chance of any sane Jury giving such a verdict with regard to the charge of making an attempt in pursuance of a Criminal Conspiracy to seduce soldiers under Section 131, I shall be content to leave un-exposed even the judge's misdirection and prejudice. The *obiter dicta* regarding the origin and growth of the Khilafat agitation deserves a detailed exposure; but what needs the most detailed exposure of all are the *obiter dicta* of the judge regarding Islamic History and his absolutely extra-judicial and false deductions in Muslim theology from that distorted version of Islamic History.

And, of course, I cannot pass over the tearing up of the Proclamation of three British Sovereigns and the clear enunciation of the latest doctrine that the Law of the Land provides no protection for the religious convictions and observances of an Indian subject of the King other than that which may be supposed to be embodied in the Act of the Legislature. Here I must confess my heart softens towards the judge and I could have found it in my heart to forgive him even if he had condemned me to death; for what matters the death of one, or even 7 Indians, be they Muslim or Hindu, if it dispels the Great Illusion that the Government in India is tolerant of the peoples, faiths and would never penalise an Indian for doing that which his religion clearly enjoins.

I.

I will therefore begin with this and commence by reminding the reader that it was the judge himself who had fired the first shot in this Mahabharat of God *versus* Man, when he had asked me, whether it was my contention that the Law of the Land should not punish a Hindu guilty of human sacrifice on the plea that his Sect enjoined it. He had added another to this poser when he had asked me if I would cut off the hand of a thief because that was the Penal Law of Islam for Larceny—a point which was then and there answered when I told the Judge that the cutting off of a thief's hand and the stoning to death of an adulterer and an adultress—who were not even criminals

according to the Law of his Land—were obligations imposed by Islam not on individual Muslims nor on non-Muslim Governments but on Muslim Governments. The Public Prosecutor had taken the lead offered to him by the Bench and had referred to the numerous sects and creeds of India, all quarrelling among themselves as to which was right and which was wrong, and—like the impartial, if impatient non-partisan who had been sickened by the eternal feuds of Montagues and Capulets and had exclaimed: “A plague upon both your houses!”—he thought he could best get out of this war of creeds by damping them all! But, thinking better of it, he had added something to rouse the feelings of rival sects and creeds, and had appealed to me to say if I would not be the first to seek the protection of the Law if a non-Muslim wanted to pull down *my* Mosque or to sacrifice *my* child as an offering to *his* gods.

In his charge to the Jury the judge returns to the same charge against Indian sects and creeds: “there are so many jarring sects and creeds in this Empire that there is hardly a single crime which some person or other might not commit under the colour of his religion.” But as I had repeatedly told the Jury, the point is not what crime a man may or may not commit under *colour* of his religion, but what his religion as a matter of *fact* clearly enjoined. The religious feelings even of individuals may not be hurt, as the Indian Penal Code itself lays down; but it is not individual idiosyncracies, whims and caprices that may be offered as exculpating pleas against punishment for what the Law declares to be a criminal offence. It must be not *the subjective feeling* of an individual, but *the objective religious edict*, a commandment acknowledged by his religion to be the Commandment of God. That’s why I insisted on my right to prove because the Law had laid on me the corresponding duty of proving that the statement for making which I was charged under Section 505 was one which I had reasonable grounds for believing to be true. The Law of the Land could not take my word for it and I would have to prove not only my individual belief but the solid substratum on which it was based—“The reasonable grounds for believing it to be true.” “Supposing,” I had said “I am charged with committing rape, and plead that my religion had enjoined it. You would not accept that.

You will call upon me to prove that "it was in fact so, before you could consider such a plea." To that I still adhere, and therefore, it is no answer to our plea of religious commandments to say that there is no crime which a man in this country may not commit *under colour* of his religion. But if the Judicial Commissioner of Sind means that Indians are merely so depraved that the religions in which they believe, and to which they assign Divine origin as a matter of actual fact do enjoin them to commit every crime, then indeed does he commit a very grave and serious error of judgement.

As regards the right of others being also entitled to respect and to seek the protection of the Law, and the learned dictum cited by the Judicial Commissioner in his charge to Jury which they could hardly be expected to comprehend. "*Sic utere tuo ut alienum non laedas*", I had already said in answer to the Public Prosecutor that no religion could impose any obligations except upon its own adherents, and no religion in India demanded the sacrifice of the child of another man, even if it demanded the sacrifice of one's own, and certainly never the surrender of one man's child for sacrifice to "propitiate the Gods of another man's faith. But after all we were not seeking the protection of the Law for murderers under the colour of *our* religion. We only sought the protection of the Law for those who said to their co-religionists "thou shalt not kill thy brother" against those who demanded the sacrifice of themselves and of their brothers to propitiate the Moloch of greed and Earthunger, the Moloch of Universal autocracy and Imperialism. It required great ingenuity to cover this insatiable thirst for our brothers' blood under the cloak of "the rights of others, or the rights of the Sovereign whose protection we invoked." This dignified cleverness was worthy of a lawyer of the Stuart period who could justify anything done by the Sovereign down to the worst tyrannies of the Court of Star Chamber. It is too late in the day to ask us to believe in "a state of nature" "red in tooth and claw," from which the sovereign has rescued us. One need not, on the other hand, go back to Rousseau's conception of an ideal "State of Nature", which, as contemporary critic of his "Social

APPENDIX 'D'

Contract" said "make us long to move on all fours." But it is undoubted that a social or civil contract does exist, even if it is only tacit and unrecorded; which gives rights to the subjects as well as to the Sovereign, just as it imposes corresponding duties on both.

And the historical example of English Sovereigns which I cited in this case more than once, tells us plainly that the first oath of allegiance has to be taken by the Sovereign, so that the subject can turn round and say that the Sovereign too should not use his right in a manner which adversely affects the rights of the subjects. And the greatest right of the subject is to have the supremacy of his God's Law recognized by the Sovereigns! The King of England has to swear in the presence of the Primate of England, the Archbishop of Canterbury, that he is and will remain a Protestant Christian and act as the DEFENDER OF THE FAITH, and rule the Realm according to the Constitution. In other words, the protection of his subjects' Religion and of their Constitution, for which they have wrought and for which they have fought, has to be accepted by the Sovereign before he is accepted as a Sovereign by the subjects. That is the true warrant of precedence in the matter of rights and duties of the subjects and the Sovereign.

The same is historically true of India, for, at the very time that the Government of the country was transferred from the East India Company to the Queen, she issued the Proclamation on which we based our plea. More than that, the very transfer of the Government to the Queen from a Commercial Company, the servants of which had disregarded the religious scruples of the people and had thereby brought on their heads the Mutiny of 1857-58, was based on the need of a clearer recognition of the Supremacy of God's Law over man's and a greater adherence to it in practice.....
.....I was not surprised to find that Karachi had lost all recollection of Cawnpore, when the Public Prosecutor said that I would be the first to seek the protection of the Law if my child was snatched for the human-sacrifice of a Hindu sect or my Mosque was pulled down: I had told him then and there that, as a non-co-operator, I would not seek the protection of his Law at any rate which ought to explain, if any explanation is

TRIAL OF ALI BROTHERS & OTHERS

necessary even to say, that it was not with a view to escape the penalties of the Law of the Land for a breach thereof that we had advanced the plea of supremacy of religious law, but in order to pull off the veil from the face of the reality, that British Courts in India, like Gallo, "cared for none of these things." But the mention of pulling down a Mosque brings to mind a little unoffending, but equally unoffending mosque in the Maashli Bazar of Cownpore, which was pulled, and pulled down too under "the protection of the Law of the Land" typified by a Civilian Governor, several Civilian subordinates of his, and the inevitable Police, armed and otherwise, followed by the Military, which between them succeeded in adding to the ruin of a Mosque the ruin of scores of "images of God" in the shape of old men and little boys who died in defence of that sacred ruin.

"Any Proclamation which secures to the subject the free exercise of his religion", runs the charge to the jury, "cannot repeal or make invalid any of the Laws of the Land which render certain acts punishable; but it must be held that such laws of the land do not contravene the Proclamation. It is almost indecent to suppose it but if it should appear at any time that there was a variation between any such Proclamation and any such Law, then we should have to confess that our humble intelligence was not sufficiently powerful to understand the meaning of both, and we should have to apply the Law of the Land which we are bound to administer." Such judicial humility is really reminiscent of the judges of the Court of Star Chamber, of whom it was said that only the ermine distinguished the judge from the prosecutor, though here even that distinguishing bit of fur, ~~the~~ missing.

But whatever view one may take of this "humble intelligence" business, it is a duty that one owes to common honesty and truth to expose the hollow mockery of this double-dealing interpretation that "Any Proclamation which secures to the subject the free exercise of his religion cannot repeal or make invalid any of the Laws of the Land which render certain acts punishable, but it must be held that such Laws of the Land do not contravene the Proclamation." We have

APPENDIX 'D'

heard of horses and cats and dogs that may be black and white. There was a pictorial weekly of that name, issuing at one time from London, and none is allowed by the pictorial advertisements in English and Anglo-Indian Newspapers to forget that there is a brand of that name of the beverage called—and alas far too frequently consumed—Whisky. But the Judicial Commissioner of Sind has originated black and white jurisprudence—that the same thing that is black **MUST** also be held to be white. A "Proclamation which assures to the subject the free exercise of his religion, that proclaims with a fanfare of trumpets the protection of the law for a man's religious beliefs and practices" **MUST** be held not to be contravened by a law that punishes him for an act which he *proves* to be one enjoined by his religion! The Proclamation protects the performance of religious duty!! That's the beauty of black-and-white jurisprudence.

The decision of Mr. Kennedy is nothing new. Cawnpore had already given warning of Karachi; but for the first time since the Mutiny has it been placed on record publicly that the whole thing has been taken by the Indian Civil Service to have been a huge camouflage. The greatest of Illusions, that the Proclamations were the basis of British Indian Constitution and the fundamental laws which guided and governed the application and administration of every other law of the land has been completely shattered and finally destroyed, and no Muslim religious recluse will now be able to seek refuge in a *meethaq* or covenant with this Government for breaking the prior *meethaq* or covenant with God through weakness and criminal silence.....

II

I now come to that part of Mr. Kennedy's charge to the Jury in which he has roamed over trackless deserts of supposition and made believe in Islamic history and has wandered like a derelict over uncharted seas of guess and conjecture in Islamic theology. These are indisputably mere *obiter dicta*, binding on no other law court in the World, but none the less dangerous for that. Quite early in the proceedings before him Mr. Kennedy had clearly intima-

TRIAL OF ALI BROTHERS & OTHERS.

ted to us that he had considerable pretensions to Arabic scholarship when he had quite irrelevently launched into a discussion of the appropriateness of the Quranic expression "Mawaldt" for "Co-operation". And he eagerly sought to enrich his store of encyclopaedic learning by asking for his personal use from Maulana Hussain Ahmed Sahib the classification that the latter had enumerated of the terms employed by Islamic *Shariat* in distinguishing various kinds of Commandments from *Fars* down to *Haram*. Not content with that newly acquired knowledge he applied it too when he used the expression *Mahruf* in his charge to the poor jury, who could ill-comprehend its significance.

But the motive for this excursion into strange and unknown realms of theology was not merely a display of over-whelming and unexpected scholarship. To say that, would, indeed be misjudging the judge and following his own example of misdirection. No, the game he was playing was much deeper. He had tried hard, with his peremptory "Sit down" to prevent, as he himself admits, my explaining to the jury the doctrine that the wilful killing of a Muslim except for just cause, strictly defined by the *Shariat*, was unlawful for another Muslim, and although he further admits that he could not do this without prejudicing our defence, he was uneasy all the time and interfered every now and then because the trial was becoming "a means of propagating doctrines which I consider dangerous and unsound!"

That affords us the true clue to Mr. Kennedy's motive for himself pronouncing "the right doctrine in the matter," even though modesty compels him to disclaim such an absurd pretention. The poison having been administered by us in the shape of the propagation of dangerous and unsound doctrines, he, the Judge must needs administer the "antidote" of "safe and sound doctrines" in his charge to the Jury and after their verdict he pronounced the sentence before writing or pronouncing his judgment!

This seems to be the motive also of typewriting several pages in the so-called summing up with regard to the genesis and growth

of the Khilafat movement, when there was hardly a line in the evidence relating to this which needed summing up. In other words, the judge has not been content with judging the accused, but has concelved, and in his own estimation carried out the ambition of judging the Khilafat movement and in fact the 1300 year-old institution of Khilafat itself! It was of course, inevitable in the case a Turkophobes,—in spite of all his attempts at appearing impartial, and of his expressing cheap pitiful "sympathy" with the Turks—that he should include in these sweeping judgments, based on no evidence adduced before him and entirely left unreferred to by the prosecution, "the doubtful Ottoman claims" to the Khilafat which had gone on for four centuries unquestioned by Arab or Ajam, Turk or Tajeek, and which his own Government had duly impressed upon Tiptu Sultan when Napoleon's eastward march was the menace of the moment, and again during the Mutiny when Turkish allies of the Crimean were hard-pressed by the Sepoys in India itself. It was not the summing up of the evidence or the charge to the jury that the judge was typing during the leisure afforded by the Devali holidays, but a work of art which he was perfecting with a view to furnish Government with ready-made propaganda for its Directors of Mis-Information and to prepare laborious ground-work for leader-writers of English and Anglo-Indian and some "Moderate" Indian newspapers.

It is this which compels me to expose these "dangerous and unsound doctrines," and it becomes a religious duty to do so because for the word of God and the example and precept of the Prophet, the consensus of *Ijma* of the *Ummat* or community, and the strictly logical Analogy or *sios* of the *Fukaha* or juris-consults of the Islam, the Judicial Commissioner of Sind substitutes a Civillian Scripture and a new Gospel of Islam according to Judge Kennedy." And woe betide them that write the scripture with their own hands and then say it is from Gods!

Shortly after we had been committed to take our trial at the Sessions, the papers published that Mr. Ross-Alston, that epitome of all legal lore, was coming to take up the Crown brief and that he was to be assisted by an expert in Islamic theology. We were ready to meet this divine who could support the

TRIAL OF ALI BROTHERS & OTHERS

Devil, but he did not appear on the scene and kind enquiries from the Advocate General of the United Provinces elicited no further information. But perhaps like so much belated evidence in a trial in which the Magistrate and Judge alone were not belated but only too previous, the *Alibi* turned up too late to be a witness in the case and was therefore utilized by the Judge in his summing up of non-existent evidence. That's the best conjecture on which his novel charge to the jury is explicable.

Now the main defence of the accused was that for one Muslim to kill another wilfully was *Haram* or forbidden by Muslim Law "except for just cause." The statement contained in the Resolution which furnished the *Corpus delicti* had avoided needless generalization and was to the effect that at the present juncture service in the British Army for a Muslim was religiously forbidden, which can only be taken to mean that, whatever may be one's view regarding service in the Army generally or at other times, the present situation was not such in which a Mussalman could, in accordance with Islamic Law, continue in British Military Service, or enlist or secure others as recruits. Indian soldiers were being made to wage a war which was no war of theirs; they had no choice in the matter:

"Their's not to reason why

"Their's but to do and die,

or rather "kill". Nobody was there to judge the "justice of the cause" according to the *Shariat*, and as a matter of fact, it was clear to the meanest Muslim intelligence that the cause was as just according to Islamic Law as it well could be. If any one desired to refute this argument, it was open to him to prove either that in no circumstances was it unlawful according to Islamic Law to kill a Muslim wilfully, or that the circumstances in which Indian Mussalmans in the British Army were required to kill brother Muslims wilfully were covered by such exception as Islamic Law itself recognized.

But what does the judge in his charge to the jury do? He takes some pains to prove that for one Muslim to kill

APPENDIX 'D'

another is not *totally* forbidden by the Quranic Law, a proposition which nobody had ever advanced, least of all the doctored in this case, who had taken the greatest possible care to explain the limits laid down by the Shariat with regard to the *harmat* of the wilful killing of a Muslim. Perhaps the very first *Hadeeth* cited by me in my statement made in the Lower Court was that which laid down the ~~three~~ exceptions—not two as Mr. Kennedy chose to specify leaving out the apostasy & desertion to the general Quranic Rule, namely, as punishment for (i) murder (ii) adultery and (iii) apostasy and desertion. The Quran had itself repeatedly laid stress on the limitation إلا بالحق "except for just cause", and had more than once permitted such killing, nay enjoined it on the society of the Faithful, as punishment for rebellious transgression بما نزل and for disturbing public peace في الدرس (vide *Sura-ul-Hujrat*, or "The Apartments," forty ninth chapter and *Sura-ul-Maida*, or "The Table," 5th chapter, the later already cited in my statement to prove prohibition of killing except for just cause.) There is therefore no merit in the judge's belated and laborously achieved discovery that "it is one of those prohibitions which is relative and contingent but not absolute."

But this is Mr. Kennedy's "last time" with the Quran and the *Hadeeth* much more accurately than the un-named *Khalifas* of whom he relates a story to a similar effect when he received news of his election and closed the Quran which he had been reading, with the exclamation: "This is my last time with Thee." Having established the "relative and contingent, but not absolute" character of the prohibition against the wilful killing of one Muslim by another, he goes on in search of its "limitations and conditions," as the best of Muslims might himself do. But while no good Muslim will deny the need of "independent enquiry" for ascertaining these "limitations and conditions," he will have to commence his pious quest not by paying his attention primarily and "particularly to a consideration of the actions of laudable persons." Islam recognizes many degrees of laudable persons, beginning with the "truly guided" first four *Kalifas* خلفاء راشدین and the "ten who received glad tidings"

TRIAL OF ALI BROTHERS & OTHERS.

mentioned in the Friday Service Khutba, through the long list of the Companions of Badr and of Uhud" اصحاب بدر وأحد and the rest of the Prophet's numerous "Companions", down to Companions and their companions' Companions تابعين وتابعين تابعين

But while the Musalmans of the Sunni persuasion, who are the only ones here concerned, go so far as to recognize the consensus, or Ujma of the whole community of Musalmans as a source of guidance in ascertaining sound doctrines, and by no means reject analogy or Qiyas قياس as another such source, they give priority to *nass-i-sareeh* نص صريح that is, an explicit commandment contained in the Quran or in an authentic Tradition of the Prophet. But the "learned" judge travels with no such "impedimenta" in his unholy quest. He never as much as mentions the Quran which has itself enjoined the killing of a Muslim for murder for rebellious transgression and disturbance of public peace, for adultery and for apostacy and desertion. And even though he mentions the prophet he at once puts him out of Court by the blasphemous generalisation that "we have little guidance during the life time of the Prophet which will help us in the present age." A poor Prophet indeed who claimed that after him no other Prophet would come, and yet, inspite of being the "Seal of the Prophets", the last symbol of authenticity affixed to Divine scriptures, left the succeeding generation to grope without guidance in their benighted state. But the Last of the Prophets did not leave us on uncharted seas or without a rudder and a compass like so much jetsam and flotsam as the judge believes us to have been.

* **فليكن بسمتي الخلفاء الراشدين المهددين عصوا عليها بالواجز**

("You are to act according to my Tradition and the Tradition of my well and truly guided successors. Hold fast to it with your teeth".) That's what he said to the succeeding generations, and we shall have a very elusive tradition to grasp if we let go that of the Prophet and of his four immediate successors for the poor substitute supplied by Judicial Commissioner of Sind.

The Quran is itself the best and safest source of our religion for all sects agree on its absolute and eternal authenticity and preser-

vation. The next in order, as I was explaining to the Jury when I was peremptorily stopped by the Judge—another example of his “tenderness rather than severity” towards the accused no doubt—is the precept and example of the Prophet, for it explains, assists and supplements the Quran, and the Quran itself bears testimony to its true guidance for all times. Nevertheless, if even the most rigidly and carefully authenticated *Hadeeth* or Tradition contained aught that clearly contravened anything in the Quran, the Universal rule of the Traditionists themselves is to reject the Tradition and go according to the Quran. But if a situation arises in which we fail to obtain a clear commandment in either the Quran or the Hadeeth, the next best and safest source, is the “consensus of the community” *اجماع امت* beginning with the agreed opinion of the prophet's Companions and coming down to that of contemporary Ulama, even though their Fatwas are being proscribed and seized by the Present Government and instead of supplying much needed guidance to a Non-Muslim Judge, are treated as *Corpus delicti* itself. A reliance on this consensus is based on Quranic authority itself, and the Prophet's testimony that God's hand is over Muslim society or jamaat and that He will never let it go astray further supports it. The last on the list of the sources of Islamic jurisprudence is *Qiyas* or Analogy (*قياس*) of a Mujtahid or qualified expert in jurisprudence, i.e. the reasoning from analogous *نصوص* (*Nusus*) in the Quran and the Hadeeth or analogous “communal consensus” (*jama-i-ummat*) the analogy of a known situation being accepted for guidance in an unknown similar situation. But Mr. Kennedy ignores the Quran, rejects the Hadeeth, penalises what he calls the “alleged” consensus of the “so-called” Ulama, and jumping to the last item, on this Warrant of Precedents, constitutes himself a recognized Mujtahid of Islamic doctrine, forgetting that it was of a similar irregular and presumptuous *Qiyas* or conjecture that the Prophet had warned the Mussalmans:

اول من قاس ابليس

(“The first who indulged in *Qiyas* or conjecture was the Devil !”) For was it not this “First Teacher” who had presumed

TRIAL OF ALL BROTHERS & OTHERS.

to assert the supremacy of his own guess and supposition over God's direct Commandment, when he had refused to bow down before God's Khalifa on Earth, Adam, on the conjectural ground that his origin from fire gave him precedence over a mere man made of common clay?

And what does this "independent" Qiyas of Mr. Kennedy lead him to? From a "particular consideration" of the "actions of laudable persons," beginning with Hazrat Ali, who fell a victim to the knife of a wilful slayer of Muslims, and ending with his son, Imam Hussain the martyr of Karbala, who was a similar victim, and strangely enough including in that category no less a "laudable person" than Ziyad,—the other such being Hajjaj, Muslim bin Oqbah and Ala-u-din Khilji in our own country,—he comes to conclusion not only (i) that it is not always unlawful for Muslim to slay Muslim but also (ii) that it makes no difference if the Muslims are attacking the Khalifa, and (iii) that too while in the service of Non-Muslim princes (iv) irrespective of the question whether such attack takes place in an offensive war or merely in a war of defence. Finally by a process of scientific and gradual *reductio ad absurdum*, the Quranic commandment, supported so amply by the testimony of Tradition and the consensus of the Islamic jurisconsults of all ages and all times, that it is forbidden for one Muslim wilfully to kill another, is made out by the judge to mean that "any Muslim soldier who fights in a war of which the accused disapprove is to go to hell!"

But let us now examine the evidence on which these most desirable conclusions are based. As I have already stated the Prophet has been put out of court because, forsooth, during his life time "the temporal kingdom extended over Arabia only". But luckily we have still the *Sunnat* or Tradition of the "well and truly guided Khalifas" when "within ten years of the death of the Prophet the Empire of the Muslims extended over a vast area.....and contained a vast heterogeneous population of diverse origins, language, customs and faiths." But did the mighty conqueror who guided Muslim counsels and regulated Muslim lives as Khalifa during the greater part of this eventful decade, claim to rule except under the direct guidance of the Quran?

His predecessor Abu Bakr (with whom God was pleased) had created the traditions for all time for man who claimed to exercise sway over their brother Muslims by telling the assembled masses :

“If I follow God’s Book, appoint me; and if I go against it, depose me!” and when the simple —souled ambassadors of the newly risen power in Arabia met their brothers of the older diplomacy of the revived Roman Empire, and the latter boastingly described the formidable autocracy of their mighty Caesar, the sons of the desert proudly recounted how they and their Commander had followed Abu Bakr’s traditions :

(He is nought but as any one of us; if he follows God’s Book we appoint him, and if he goes against it we depose him.)” And it is just because “he was nought but as any one of us”, and demanded obedience only for God and through God, that his office was sacrosanct beyond the dreams of mundane monarchs and infallible Pontiffs.

But the world saw a glimpse of “the Ideal Government” during the life-time of the Prophet and for but 30 years there after and then came as the Prophet had predicted kings and dynasties. No man had ever had to deal with more novel, problems of governance than Khalifa Umer, the conqueror of Persia, Egypt, Palestine, and most of Syria and Mesopotamia, and yet although he never hesitated to adopt and adopt alien methods of administration, it never occurred to him to complain of the absence of guidance in the “Clear Book” of God that contains every thing “wet and dry”, or in the precept and example of the Last of the Prophets. It could not certainly have been true of him or of his two immediate successors that on hearing of his succession he shut the Book of God with sigh and said “this is my last time with Thee”, if it means that the eternal source of Muslim inspiration in every contingency had run dry ! In the absence of books of history here in prison—or in fact, of any books except the few English books that we owe to the solid good taste of a “Political Prisoner looked up here before our time whom all European prisoners in search of “light works of fiction” curse,—I have not been able to look up this reference. But if the story is told of Abdul Malik—Ibn-i-Marwan, in whose time there was much extension

TRIAL OF ALI BROTHERS & OTHERS.

of territory (including the conquest of Sind by the nephew of Hajjaj, Mahomed-bin-Qasim) and much "consolidation of empire", as a modern Britisher would say, it is just as well to hear of the *end* also of the man who shut the Quran with a sigh when he *commenced* his rule. It was more than a sigh with which he ended his "successful" reign, when he lamented the fact that he ever became a ruler responsible for the many sins of a "firm government" instead of teaching the Prophet's Traditions!

No Muslim would cavil at the doctrine that the ruler "is guilty of sin if he allows the temporal kingdom and the affairs of the Muslims to go to ruin for lack of the due enforcement of the necessary temporal rulers, which must no doubt not *contravene* the Sacred Law, but are not directly *sanctioned* by it", except that no Muslim can tolerate the lacerating distinction between things temporal and things spiritual, and that a Muslim would require every rule before it can be enforced by a Muslim administration not only not to *contravene* the sacred law, but to be framed under its regulating general guidance. But how does this doctrine of judge Kennedy justify the undue enforcement of the unnecessary temporal rule not only *not sanctioned* by the sacred law directly or indirectly, but in direct *contravention* of it namely that a Muslim may kill another Muslim without just cause, including the Khalifa himself, by fighting in an offensive war against him while serving the British Indian Government? And if this *Sariat* of Mr. Kennedy is to replace the *Sheriat*, may not the Muslim soldier ask "*Duo warranto?*" Mr. Kennedy says he has seen "severe strictures by pious men on kings who acted not like Kings but like ascetics". But does he not know that in Islam these "Severe strictures" were first passed *not* by "pious men", but by the God of Islam himself and by his Prophet on the kind of asceticism which is to be condemned?

Islam provides a code of right conduct for *all* men, and *not* separate codes for those who are to be Kings and those who are to be subjects, and Islam's code of right conduct for all man kind, while it condemns that absorption in the joys and sorrows of this world which would make a man lose sight of his duties to his maker and forget the rewards of the world to come, tells him at the same time that he has to live, move and have his being in this world, and cannot neglect the

duties he owes here to his fellow men. He is to be in this world, but not of it, and must prove his dutifulness to God by doing all his duties prescribed by God for him in this world, and not by forsaking the world together with all the duties he owes therein.

("There is no anchoritism in Islam") said the Prophet of God, echoing the words of God regarding un-natural code of conduct formulated for Christian monks by themselves without any warrant for it from God :"

("Then we sent other apostles of ours fast on the footsteps of Noah and Abraham and their posterity and then we sent Jesus the son of Mary and bestowed on him the gospels and we cast tenderness and compassionateness into the hearts of those who followed him, but anchoritism did they innovate themselves—we had not prescribed that for them—for securing the good-will of God, but they did not observe it to the true extent of its observance; so we gave their recompense to such of them as became True Believers (or Faithful) but many of them are law-breakers (or evil-doers—Sura-i-Al-Hadeed or "The Iron", 57th chapter)

If, therefore, it is asceticism to be tender and compassionate and refrain from the shedding of blood except for just cause as already defined in God's Law, then certainly every Muslim, be he King or be he subject, has to be an ascetic. But if asceticism meant retirement from the world and all its concerns into some dark sequestered cave or on to some remote mountain-top, to secure the good-will of God, then it is an excrescence and an unnatural innovation of men for which there is no warrant in Divine Law, whether for dervishes or for Kings.

Nevertheless excessive indulgence in the pleasures of this world was as rigorously forbidden by Islam as anchoritism and it is the boast of Islam that not a few Muslims could, maintain plain living even on the dizzy height of a magnificent throne. Mr. Kennedy cites among his "laudable persons" the example of the Zangis. Nur-ud-din Zangi, the Atabek of Mosul and master of Salah-ud-udin's uncle Sherkuh, lived such a life, and when his favorite wife asked him for an increment in her small allowance, he could only make her the offer of his three shops at Emessa or Hams. "Three shops!" asked the astonished wife,

TRIAL OF ALI BROTHERS & OTHERS.

"and, pray, whose, is this extensive kingdom and all that it holds?" "Ah," replied the Zengi, 'that's God's and Mussalmans'. As for myself, I own only these three shops in Hams which I have purchased out of my own earnings." That was the theocracy of Islam for which Mr. Kennedy would substitute the cruellest of autocracies." Nearer home, the much-maligned Aurangzeb, who had as a Prince once retired to the solitude of a cave in Ceylon but had come to recognize the error of that sort of asceticism, nevertheless earned his own living while ruling as Emperor of India, by sewing caps and the still more congenial occupation of copying the Holy Quran, and while often living merely on barley bread and water, left forty rupees and twelve annas as the savings of a life-time to be utilised for his unostentatious burial. His simple grave at Deogiri or Daulatabad under a Mausiri tree is characteristic of the kind of asceticism that Islam not only permitted but enjoined on all, kings as well as subjects.

So much for Mr. Kennedy's "severe strictures written by pious men on Kings who acted not like Kings but like ascetics". And we now come to "the Imperial theme" to which all this condemnation of Kings acting like ascetics was "but the prologue, but almost the first requisite", says Mr. Kennedy "almost the first requisite of temporal rule is that the authority of the ruler should be upheld'!" But that never was and never can be the doctrine of Islam, where the authority of the temporal ruler is only to be upheld if he rules as the Agent of God and upholds His eternal rule over all His Creatures. "There is no government but God's", preached Hazrat Yusuf in prison itself to his fellow prisoners, "None are we commanded to serve but Him alone; this is the straight religion even though the major portion of men know it not!" There may be Kings and there are numerous Traditions of the Prophet enjoining the honouring of kings. But that's only because the King has to be "the shadow of Allah on the Earth" ظل الله and it is clear as the noonday sun that no shadow can exist alone and unrelated to the substance. So long as the shadow goes with that substance and the two do not part company, the king as the shadow of God on earth is entitled to his subjects's respect.

"The King is the shadow of God on earth; God honoureth him who honoureth the king and God dishonoureth him who dishonoureth the King."

"But where the shadow presumes to set up a claim to be itself the substance, it must vanish from our sight and leave not a rack behind."

In my statement before the Committing Magistrate I have cited several emphatic traditions of the Prophet enjoining the strictest discipline on Muslims and implicit obedience to the commands of those in authority from among themselves. But even in their case, if they commanded aught that contravened God's commandment, there was to be "neither hearing nor obeying"! And what could be clearer than the Quranic injunction:

."("and if Ye and the men in authority from among you dispute in aught, refer it back to God, if Ye have faith in God, and in the Last Day. This is best for you and the fairest determination".)

Mr. Kennedy would, however, appeal against Law to History, as if that tribunal of erring mankind could anticipate reverse the order of Doomes-Day and dethrone God from his Eternal Throne. The Prophet of God had foreseen, and, what is more important for our present purpose, foretold the trials and tribulations that awaited his *Ummat*, and the Babô-al-Fietan the Chapter of the Traditions dealing with coming trials and disturbances,—is full of what History had subsequently to record.

"I fear not poverty for you," lamented the Prophet of God, "But I fear the world may be extended unto you and ye may selfishly struggle for it among yourselves even as those had selfishly struggled for it that were before you. and ye may kill each other and perish". And we have come as near perishing to-day as we could well do because these "laudable persons" of Mr. Kennedy had the world extended only too widely unto them and selfishly struggled for among themselves even as those had done that had proceeded them, and wilfully slew Muslims without just cause. Is the action of these very men to become the *Sunnat* that we must hold fast with our teeth while discarding the *Sunnat* of the Last of the Prophets and of his well and truly guided successors? If such precedents could replace the Shariat and Divine and Prophetic guidance, then truly would the Shariat also become "the lawless science of Law" and "the wilderness of single instances" to mislead God's simple creatures. For if Ziyad's killing of Hussain could modify the sacred law in favour of such vile and wilfull slaying, why could not the adultery of this bastard's father justify that sin which is

TRIAL OF ALI BROTHERS & OTHERS.

no offence according to the criminology of Great Britain? Because Mussalmans still drink wine and fornicate, the drinking of wine and fornication have not ceased to be sinful, why then should not the wilful slaughter of a Muslim without just cause be as sinful as ever, even though Najjaj-Ibn-I-Yusaf-ath-Thagafi spared not Muslim lives in the very sanctuary of the Kaaba?

"Woe betide the Arabs for the evil that's nigh;" said the Prophet, "Its victims shall be consigned to Hell-fire!"

"Alas, for Ammar!" lamented the Prophet, "the rebellious faction shall kill him, when he will be inviting them towards Paradise and they will be inviting him towards Hell-fire".

"The destruction of *my Ummat* will be at the hands of some striplings from the Quresh".

"There will soon be among the tribe of Thaqeef a terrible destroyer (or exterminator) and a terrible liar."

Contemporary Ulama and their successors have all agreed that the "Terrible Destroyer" here prophesied was Mr. Kennedy's "laudable person" Hajjaj, the Governor and General of the Umayyide King Abdul Malik Ibn-i-Marwan, a consideration of whose actions and independent enquiry into whose tyrannical repression will according to Mr. Kennedy enable us to ascertain the "limitations and conditions" of the Divine injunction against the wilful slaying of a Muslim and provide ample guidance to "help us in the present age" when the Prophet's own life-time, affords according to him "little guidance"!

Ammar, the son of Yasar,—that first victim to be slain "in the way of Allah"—was himself killed in the battle of Siffin to which Mr. Kennedy also alludes. Are we to mourn with the Prophet for Ammar who was inviting "the rebellious factors" towards Paradise, or glory in the slaughter which consigned that rebel band to Hell-fire? Are we to mourn for Hussain the victim, or rejoice in the success of Yazeed the victor when we know that we owe our destruction to Yazeed and other such Quresh striplings, including Feisal, the Successor of Yazeed in the Kingdom of Karbala!.

It is true that Hazrat Ali drew the Zulfiqar against Muslims and we know that he was "the lion of God" and with him, as Mr. Kennedy very kindly reminds us, "was God pleased." We also know that the Camel which he ordered to be bled to death on "The Day of the Camel" was the mount of none other than Hazrat Ayesha, (with whom we may not forget, both God and God's Prophet were equally well pleased). That camel bore a burden that had been borne by the shoulders of the Prophet's spouse herself when he patiently showed his girl-wife from her apartments, until she admits she herself got tired and dismounted—the military sports of the Abyssinians on the Day of Id. We further know that with Hazrat Ayesha were also Hazrat Talha and Hazrat Zubeir, both of whom had shared with Hazrat Ali, and the other well truly guided successors of the Prophet, the glad tidings of a promise of Paradise. These were no doubt "laudable persons", and the *Sunnat* of Ali must we hold fast even with our teeth. Why then did he draw the sword against *them*, and why did *they* come to fight against *him*? The story is simple but it is certainly not the story that Mr. Kennedy relates.

The succession of Hazrat Ali was not challenged by Hazrat Talha and Zubair, because they had already placed their hands between his in token of allegiance acknowledged. But they certainly insisted on the wilful killing of the late Khalifa, Hazrat Othman. Hazrat Ali no doubt contemplated taking such action, but awaited the opportunity and the strength to enforce the Divine Law of *Qisas*—the taking of a life for a life, in which there was "life" for mankind. He was not yet firmly in the saddle and wanted time. Those who opposed him were deemed by him to be rebels whom he considered himself as their acknowledged Khalifa and Commander of the Faithful entitled to slay for rebellion and for disturbing the public peace. They on their part considered that he had ceased to be entitled to any obedience as Khalifa and Amir-ul-Momineen because he had defied the Divine Law of *Qisas* and was screening the murderers of the late Khalifa and Emir-ul-Momineen. Neither side, therefore, considered itself to be outside the pale of Divine protection offered by the exceptions contained in the verse regarding "him who took a life without a life or to disturb peace on earth."

The Day of the Camel was the day of cross-purposes. Overnight

TRIAL OF ALI BROTHERS & OTHERS.

a settlement had been concluded on the basis of the surrender of the culprits involved in the murder of Othman of Ayesha; but this sort of peace could not be to the liking of those who were about to be surrendered, and they resorted to violence during the night which resulted in the two forces lying opposite to each other joining issue. Those on either side who were not in the know regarding the action of the culprits blamed other side and thus when Ali met Talha & Zubair in battle, there was bitter mutual recrimination. But when the truth dawned on the two latter, they immediately retired from the field, only to fall victims to the swords of Ali's partisans. When one of these men brought to Ali the head of Zubair, the cousin of the Prophet, and hoped to get considerable reward for it, Ali only announced to him the reward that the Prophet had bade the Muslims to announce to him: "Give the slayer of Safiyyah's son the glad tidings of Hell-fire"! How would that do as a commentary on Mr. Kennedy's allotment of rewards and penalties on the Last Day: "What is the simple minded Mawla or tribesman to do in such a case? Is he to decide and decide rightly on pain of hell-fire which is the right claimant. God does not compel you to impossibilities. The soldier cannot be guilty of sin if he keeps faith to his rightful patron or chief. The sin, if any, is on the chief and not on the soldier."

"No bearer" says the Quran, "shall bear the burden of another!" As for Ayesha she recollected only when reminded by Ali himself, the words of the Prophet that she would one day fight him, and the Prophet's injunction binding her not to leave her house. For this forgetfulness she never ceased to expiate during the rest of her life when her chief occupation was to purchase slaves only to manumit them,—a fitting atonement for an error that had resulted in the slaying of many Muslims "through mischance." And if Mr. Kennedy, would deign to look up his copy of the Quran, he will find therein enough guidance for the problem presented by the terrible tragedy of the Day of the Camel. For, says the Quran :

("And if two parties from among the Faithful fight each other, then make peace between the twain; and if one of the twain transgresseth against the other, fight the one that transgresseth until it reverts to

the commandment of God; then if it reverts, make peace between the twain with justice and equity; Verily God loveth them that do equity. Nought is true but this that the faithful are brothers, wherefore make peace between the twain of your brothers; and fear God, haply mercy may be dealt unto you."

Can this Brotherhood of the Muslim and Muslim remain intact if wilful slaying of Muslims, including their Khalifa himself, even by Muslim soldiers in the pay of a non-Muslim waging an offensive war, was to be lawful?

The issue in the Battle of Siffin, though ostensibly similar, was in reality different, and the actors on the side opposed to Hazrat Ali were also of a different stamp. As Nazrat Othman was himself one of the Beni Umayya, Amir Muawiya, the leader of that House, had good enough claim to demand the *Qisas*. But for one thing, all the culprits had already paid the penalty for that dastardly deed with their lives on the Day of the Camel, and, for another, Amir Muawiya had not acknowledged Hazrat Ali as Khalifa as Amir-ul-Momineen, and the battle of Siffin rather than the earlier conflict was an armed challenge to Ali's Khilafat. But, so far as I know, all Ulema of Islam have agreed that this challenge was nothing short of rebellion, as the Hadeeth about Amir's death, who was killed on the field of Siffin, itself testifies. Amir Muawiya and all his party were designated "Fiat-ul-baghiyat" ("the Rebellious Faction") until Imam Hassan made a settlement whereby Amir Muawiya became Khalifa and Amir-ul-Momineen. It is *not* as the Judicial Commissioner asserts that "at the battle of Siffin Amru (*Sic*) Al 'Aas the General of Muawiya of the Bani-Umaiya, did much what the accused are said to have done; *he imported into a purely temporal matter a question of religion*, and by binding the Quran to the lances of his soldiers forced Ali to submit to arbitration, but all schools reprobate this action." The matter was *not* "temporal" as Hazrat Ali would have been the first to maintain, and all schools reprobate this action *not* because Amir bin-Al'Aas "imported into a purely temporal matter a question of religion", but because he abused the Quran by making it serve his low purpose of cheating Hazrat Ali as the sequel will show. If the accused are ever guilty of that trickery all the punishments of Mr. Kennedy's "Law of the Land," and all his

TRIAL OF ALI BROTHERS & OTHERS.

"temporal censures," will not equal the smallest fraction of the torments that the accused will in that case merit hereafter.

Amir, although he was the conqueror of Egypt found his courage failing in him in such a sacrilegious war as he was now waging on behalf of "the Rebellious Faction", and despaired of the result, after seeing the turn which the fighting had so far taken, if he had to remain content with putting his faction's claims merely to the arbitrament of the sword. He, therefore, bethought himself of another kind of arbitrament and exchanged stratagem for strategy. Knowing that Ali's supporters included a large number of ignorant people who were inclined towards perverse fanaticism, he caused copies of the Quran to be tied to the lances of his soldiery and demanded arbitration in the name of the holy Book. Hazrat Ali, whose respect for the Quran none could improve upon was inclined to ignore this mock-religious appeal, and he argued with these fanatics. Telling them the whole thing was a ruse, reclaimed to be "the speaking Quran" himself, as he could well claim, being the accepted repository of the Tradition of Islam. When nothing could convert these people, he agreed to abide by the result of the arbitration and while Amir himself was nominated by the Beni Umaiyya, Ali nominated Abdullah-ibn-Al-Abbas. To this the rebellious faction demurred, on the ground of Hazrat Abdullah being a cousin of Ali and a Bani Hashim, while even an Amr-ibn-Al-Aas could claim that he was no relation of Muawiya, and this challenge to Ali's nomination was supported by the fanatics of his own side. It was then that Abu Moosa Ashari was nominated by Ali. And yet so perverse were these ignorant fanatics on his side that now they turned round and accused Ali of having made a man an arbitrator in a dispute between Muslim and Muslim when the Quran had declared ("there is no Government (also judgment) but God's"). Twelve thousand immediately deserted him; but when Abdullah ibn-Al' Abbas, a prince among Traditionists, was sent by Hazrat Ali to explain things to them, with instructions to base his arguments mostly on the Traditions of the Prophet, as they were the best commentary of the Quran, 8000 reverted to their sworn allegiance, but the remaining 4000 deserted finally, and became the *Kharijees* that Sunnis and Shias alike reprobate, but whom Mr. Kennedy has been pleased to give the honourable and topical cognomen of "Non-co-operators."

When the arbitrators finally met, poor Abu Moosa Ashari, a pious and unsophisticated old Yemenite Companion of the Prophet, fell into the trap prepared by Amr-ibn-Al-Aas for him. It was proposed by Amr that both the arbitrators should begin by pronouncing judgment each against his own claimant for Khilafat, and thereafter leave the community to elect the Khalifa afresh untrammelledly what had gone before. Abu Moosa was warned against this and was asked at least to leave Amr to make the beginning in this self-denying arbitration; but he heeded it not, and relied upon the word of a Muslim and a Companion of the Prophet, and when he had pronounced the deposition of Ali, Amr promptly announced the end of the dispute—by “agreement”—for he said that while Ali had been deposed by his nominee, he the nominee of Muawiya proclaimed Muawiya as Khalifa, there being no other in the field. It was *this action* and *not* “what the accused are said to have done” that “all schools reprobate”, and I have been forced to go into all these details to refute this false history of which Mr. Kennedy took “judicial notice”, and still more the false doctrine that he wholly “extra-judicially” deduced from it.

III .

The other question relating to the question of the Khalifa, need not detain us very long, for a citation of a *Hadeeth* on the subject of rival claimants to Khilafat, even though fairly well-known to Mussalmans all the world over, would suffice to dispel the darkness caused by the smoke-screen of Mr. Kennedy. He wishes to prove that it is not unlawful according to the Law of Islam for a Muslim to rise against the Khalifa and fight his Muslim armies, or even to lay hands on him, and that “this doctrine of any particular sanctity in the Office of the Khilifat seems to be a new thing among the Sunnis, invented by the very band of rebels and innovators who equally deposed Abdul Hamid,” and for evidence he reproduces a summary of the history of the decline of the Khilafat and of the selfish rapacity of his “orthodox Princes” who gradually deprived the Khalifa of all territorial possessions. He might just as well have painted the picture of the Holy Roman Empire, at the time when Voltaire found it to be neither Holy, nor Roman, nor an Empire and with better justice might have said that there *never* was a foundation for attaching any sanctity to the office of the Emperor, and at least with equal justice might have said that there never

TRIAL OF ALI BROTHERS & OTHERS.

was a Holy Roman Empire. Nay, he could have even asserted that the Papacy was never held in any esteem until a few facious Roman Catholics who had themselves turned the Pope out of the Quirinal palace, and locked him up in the Vatican, began to call him His Holiness and Pontifex Maximus, to serve their own ends, and to oppose the true Protestant Faith, because some Popes like the lovers of Theodosia and Marozzia had lived very unholy and licentious lives, unworthy of any Christian and much more so of Catholics in Holy Orders with their vow of perpetual celibacy; and St. Peter's at Rome still contains the nude marble statue of an illegitimate daughter of one Pope who was the mistress of another Pope, but whose undraped beauty a later Pope, out of sheer decency, caused to be covered with draperies in metal painted with white enamel! At any rate, neither Mr. Lloyd George nor Mr. Asquith could much relish Mr. Kennedy's description of the Khalifa that "he is the temporal Lord of the Muslims", for, in order to deprive him of his temporal power, and even to "Vaticanise" him these English Statesmen have likened him *not* to "the temporal lord of the Muslims", but to the Spiritual head of a branch of the Church of Islam.

But Islam knows no temporal overlordships distinct from spiritual headship of the Church and these terms are not at all applicable to the Khalifa of the Prophet of Islam and Commander of the faithful. They are only borrowed from a faith the history of which originated and continued for over three centuries without any temporal power attached thereto, and thereby created that interminable struggle between Empire and Papacy—Papacy which has hardly yet ceased. The Khalifas are the successors of the Prophet, and short of his apostleship, they continue the succession to his spiritual cum temporal rule over all Muslims. They can not claim more nor can they be content with less. For the Prophet of God was His representative on Earth or Khalifa—an expression the use of which for a *man* need cause no surprise to Mr. Kennedy for a God who with His Infinitude cannot take a finite shape as "Son of God" or His Avatar or incarnation, must needs send a man to represent Him and act as His deputy among men.

But perhaps Mr. Kennedy has never read the Quran where a mere man is twice mentioned as the Khalifa on the earth of a God "sufficiently known" to be "Universally and eternally present." Before

APPENDIX 'D'

the First Man was created God addressed the host of angels in His Heaven and said

"I am about to create a Khalifa" and when he had created him and equipped him with knowledge beyond the reach even of angels, He asked the angels to bow before the latest creation of the omniscient and Almighty. It may interest Mr. Kennedy to know that all bowed before the Khalifa ("Except the Devil who haughtily refused to acknowledge a human representative and deputy of God on earth, and thereby became an Infidel!")

The other mention in the Quran of a Khalifa of God is in reference to David, "O David, we will make thee a Khalifa on earth, wherefore judge between people with justice and follow not desire, since it will lead thee astray from the path of God; verily those that stray from the path of God, for them there is severe torment in that they forgot the day of Reckoning" "—Sura-i-Suad, 38th Chapter".

The last Khalifa of God on earth in that sense, as the Last Prophet, was Mahomed (on whom God's Peace and Benedictions) and since then his first successor was known as the Khalifa of the Prophet, and the next successor as the Khalifa of the Khalifa of the Prophet and so on. But since the line of succession was continuous, it was agreed that each successor should shortly be designated as the Khalifa of the Prophet and the Commander of the faithful. With regard to the succession to his Khilafat in general the Prophet himself had said:

Arabic.....

"Whenever a Prophet died, another succeeded him, and verily there is to be no Prophet after me but there will soon be Khalifas and they will be many." The companions asked him, "therefore what do you order us to do, O Prophet of God?" He said "Be true to the allegiance sworn to the first, and then to the allegiance sworn to the next, and so on in due order. Do you fulfil what is due from you, and God will question them regarding that over which they were appointed wardens." Nevertheless on one occasion at least the Prophet himself calls one of his successors the Mahdi who is yet to come as the Khalifa of God in the well-known Hadeeth: "When you see the black flags come from the direction of Khorasan approach them, for in them will be the Khalifa of God, Almahdi."

TRIAL OF ALL BROTHERS & OTHERS.

This *Hadeeth* should suffice to prove that the Khalifas from the very first day hold a position of "particular sanctity" analogous to the position of Prophets before Islam; that Muslims were to owe allegiance only to one at a time; that nothing short of breaches of the Sacred Law, in which they were not to be followed—as I have already cited *Hadeeths* to prove—could justify disobedience to their commands, and—as I shall cite another *Hadeeth* to prove—only open infidelity justified armed resistance or (Arabic) (*Khuruj*) that the Mussalman must for their part carry out all their own obligations to the Khalifa and must leave it to God to question the Khalifa with regard to that which had been placed under his charge and warden-ship.

What could be clearer nay, what could be more statemanslike than this? Abu Ruzaifa, a companion of the Prophet is a specialist regarding the Traditions concerning the future trials and tribulations of Muslims and used to question the Prophet very frequently about them. In one of these Traditions the Prophet foreshadowed a time when the Khalifa would be a terrible tyrant, and Abu Ruzaifa, apprehending that such a period might come within his life-time—as it did in the time of *some* companions of the Prophet—asked him how he should act in such a contingency. And unhesitatingly the Prophet commanded his Companion to obey him unfalteringly even if the unjust and cruel Khalifa ordered him to receive undeserved lashes on his back. Thus, on the one side even David, a Prophet and Khalifa of God Himself is warned to deal justly with the men over whom he was appointed God's deputy and representative, and not to follow selfish, misleading desires, lest he stray from the path of God, and forget the Day of Reckoning, when he would stand answerable to God for that which was placed under his wardenship, and would be liable, in case of neglect, to severe torment. On the other hand, a Muslim must unfailingly obey a mere man like him who has no pretensions to apostolic succession, whom he had himself helped to appoint, and whom he could himself help to depose, but who was nevertheless a Khalifa or Successor of the Prophet, and through him, "the Shadow of God on Earth". He must not deny his allegiance to him, even though he should personally suffer indignity and torture without deserving either. There is thus no unrestrained autocracy in the case of the ruler, but merely theocratic representation with a very heavy responsibility to God and Man, and

APPENDIX 'D'

yet no encouragement of indiscipline in the case of the subject even in case of unmerited suffering and hardly endurable provocation. The Office of the Khalifa is sacrosanct even if the person holding it may forfeit by his own evil-doing all title to personal esteem. The Khalifa has his duties for which he is answerable and the Muslim who owes allegiance to him has *his* duties for which *he* is answerable, and although no obedience is due from the latter to the former in aught involving disobedience to the God whose deputy he is in succession through the Prophet,* the Muslims are not on that account to go to war against the Khalifa.

- “*Except if you see open Infidelity which furnishes you with an argument before God*”—(Tradition).

When the Quran first promised the Khilafat to Mussalmans it was in these words :

(“ Such of you as are Faithful and do good works God promised unto them that He would assuredly bestow succession (Khilafat) on the Earth upon them as He had bestowed succession (Khilafat) upon those that were before them ; and that He would assuredly establish for them their faith which He approved for them and that he would assuredly bring peace unto them in exchange their fear. (Or insecurity); serve Me, associate nought with Me ; and whoever will reject (or deny the true Faith or be Infidel thereafter, then are they evil-doers or Law-Breakers ”—Sura-i-An-Noor or “The Light” 24th Chapter) This is the definite promise of Islamic Khilafat and this also the purpose for which it was to be bestowed on the Mussalmans, namely that they should serve God, and assign to the commands of none other the binding force and supremacy that are peculiarly associated with the commandments of God. And the very first verses in the Quran that permitted the Muslims to draw the sword against their tyrannical persecutors were these :

(“Those Muslims too with whom the infidels are warring are now permitted to fight against them because they have truly been oppressed and verily God is potent to render victorious succour to them that have been driven forth from their home-lands without just cause but only because they say ‘God is our Lord’; did not God set aside some men through the agency of others from their dominion, churches and

TRIAL OF ALI BROTHERS & OTHERS.

temples and synagogues as well as mosques in which the name of God is frequently repeated, would have been certainly demolished; and assuredly God will give victorious succour unto them that succour God; verily God is of a surety Strong and Mighty. These are people who, if we established them in dominion over the earth would maintain prayer, give obligatory alms, exhort people to do the righteous thing and prevent them from doing the unrighteous; and for God is the eternal determination of affairs—(Sura-i-al-hajj "The Hajj" 22nd chapter).

It is because the "Kings," that became Khalifas after the well and truly guided Khalifas of the first thirty years following the passing away of the Prophet, very often neglected this, the true purpose of their Khilafat, and selfishly sought the world that had been extended unto them, and because others, "orthodox Princes," instead of getting the Mussalmans to depose such of them as were guilty of breaches of God's Law, or themselves suffering patiently under their injustice, set up rival kingdoms and hastened disruption and anarchy that the Khilafat has come to this pass today. The Khalifa is a prisoner of the English, who exercise undisputed sway in his very capital, bereft as it is of all means of defence, and the Khalifa's residence has the guns of the English Fleet trained on it so as to keep him in duress vile. The only sign of his temporal power,—the greatest need of the Khilafat, of course, after its spiritual soundness—a need that reconciled the most pious Muslim divines to the Khilafat of Kings and dynasties whose only claim to it was that power—is to be found not in the Government at Constantinople, but in that temporarily established by Ghazi Mustafa Kamal Pasha at Angora. And yet strangely enough, it was against that solitary sign of his temporal power that the Khalifa sent so-called "Khilafat Armies" at the bidding of the English. Could Islam well be in a worse plight than this?

But when the leading Ulama and other exponents of Muslim public opinion in a country that has far the largest Muslim population of any country in the world, recognize long last the true cause of all the ailments of Mussalmans of which everything else is only a symptom, namely the neglect of God's commandments by princes and by people, by *Alim* and by *Ummi*, by soldiers and by civilians, and seek to prescribe the true remedy to the patient in his all but fatal illness. The Judicial Commissioner must needs penalise them, and preach to them on their duty

to remain silent, and not to go about as busy bodies preaching in season and out of season, or to preach, if preach they must—against the excessive use of music and the wearing of silk apparel. Yes, all this is sinful and no Mussalman can afford to disregard vice in any shape or form. But when God Himself has furnished us with a divine warrant of Precedence, and has commanded us to avoid the Cardinal or major, sins first, promising that if we on our part do that He may in his abounding mercy, haply blot out the minor sins, are we to preach “out of season” a sermon against silk shirts and siren songs when the one sermon that is “in season” is to preach, and to preach from every available pulpit, against Muslim soldiers wilfully slaying brother Muslims without just cause, and warring against their Supremest Commander, among men, the Successor of their Beloved Prophet, and the Shadow of God Himself on Earth?

But, what, asks Mr. Kennedy of rival claimants to the Khilafat? Well, what of them? Islam was no incomplete faith when the Last of the Prophets passed away, that Mr. Kennedy may be permitted to try his 'prentice hand at completing and perfecting it with the help of his “orthodox princes,” his “laudable persons” and his “simple-minded Mawla or tribesman”—the “automaton “to whom his chieftain is to supply the “mirror of consciousness”. Allegiance is due to the first Khalifa, and only *after* him to his successor, as the Hadeeth I have already cited clearly proves. Here is another and still simple solution; “When allegiance is sought for two Khalifas, *slay the second of the twain!*”—(Authentic Tradition in both “Bokhari” and “Muslim”). Here, is not only [the lawfulness of slaying a brother Muslim to prove “relative and contingent but not absolute prohibition,” but a positive and direct *command* to kill or slay the second! That's why the Grand Sherif of Mecca nor any of his “Quresh striplings” in search of any sort or kind of a throne, even if three-legged, did not dare to set himself up as a rival Khalifa, for they feared only too justly that simple solution—“slay the second”! Here is another *Hadeeth*, should anyone need another after the one above :

“When you have all agreed on a man to carry on your affairs, who so comes to you and intends to cause separation among you, then kill him, be he whoever he may.” Yes, “kill him be he who ever he may”—even though he be the English “Grand Sherif

TRIAL OF ALI BROTHERS & OTHERS.

Mecca" and a true descendent of the Prophet, lured by the promise of an Arab Empire offered by Sir Henry Mac Mahon, late foreign Secretary of India and for a brief space High Commissioner of Egypt.

The reason for this stern and drastic commandment is not far to seek. The lashes that Hazrat Abu Huzifa was asked to endure on his bare back have already pointed to it. The reconciliation of the most pious Ulama to the Umayyide rule of Yazid's successors has also done the same. Muslim society must not be exposed to fratricidal wars, leading to disruption and decay. If a Khalifa is not worthy of that office, let him be deposed; but if another, the worthiest and most pious among the Muslims, sets up a rival claim while the unworthy man is still Khalifa, then, he the worthiest and most pious among the Muslims, must pay the penalty of his "previousness" with his life.

If that is so, you ask, what is to become of so many "orthodox Princes" who warred against the Khalifa or set up rival claims against him? Well, I am sorry for them, even if Mr. Kennedy's far too sweeping statement be true that "the Ulama of Cordova, Seville and Toledo issued no Fatwas" against Abdur Rahman of Spain whom the Abbaside Khalifa even called the Falcon of the east. In the first place, neither the Umayyides nor, indeed, the Abbasides had succeeded to the Khilafat in the manner of the well and truly guided first four Khalifas that is, by election or by nomination by their predecessor accepted and acclaimed by the community. But since they had that great requisite of Khilafat, temporal power, which was generally used by them to good effect in defence of Islam, the Ulama of those times, of following the prophecy of the Prophet about "many" Khalifas and about "Kings" and dynasties after the Ideal first four, reconciled themselves, for the sake of the defence and security of the Muslim world, to the Khilafat acquired by these latter i. e. with *force majeure* and domination. Therefore, Abdur Rahman, who had escaped the holocaust of his family at the hands of its Abbaside supplinters and their Ajami supporters, felt himself to be at least as much entitled to continue the succession in the Umayyide family as the newly risen Abbasides did in breaking that continuity. In the next place, the Muslim world outside the Iberian Peninsula of Europe and the Far West in Africa did not acknowledge the Umayyides as Khalifa. No doubt many of the "Orthodox Princes" who defended Islam in Spain

and the Western Marches contributed a brilliant chapter in the History of Muslim rule. But it is open to us to speculate where we would have been if there had been one Supreme Khilafat throughout the Muslim World of which each succeeding incumbent was elected by the democracy of Islam or nominated by his predecessor with popular acclaim. As a European writer has said, Christendom must thank Amir Muawiya that all Europe is not part of the Muslim world to-day, and we can not mourn too much the awful tragedy of Siffin, in spite of Hazrat Ali's chivalrous—nay, truly Islamic offer of help to Muawiya in Syria against New Rome.

And what shall we say of the tragedy of Karbala where the sons of these two opposing protagonists of Siffin were the chief actors? Can any Muslim, Sunni or Shiah, forgive who said in open court: "And why did Hussain Bin Ali go to Irak? Not, I think, to drink the waters of the Euphrates or the Tigris, or to deliver lectures in Kufa or Basra, *but to maintain his right, sword in hand, like a valiant prince.*" To maintain his right as a prince or his grandfather's right as a Prophet? Prince indeed! Why?

("King is Hussain, Emperor is Hussain! Faith is Hussain and the sure Refuge of Faith is Hussain!! He gave away his head, but gave not his hand into the hands of Yazid; Of a truth the foundation of 'there's no god but God is Hussain!'")

This is the truest appreciation of Hussain maintaining his right and that of every Muslim against Yazid and the likes of Yazid, to come in future generations, and it may interest Mr. Kennedy to know that this was written not by some Shiah believer in apostolic succession, but by a Sunni Saint who is known to this day as "Sultan-Ul-Hind", the Sultan of India", though he was buried ever so many centuries ago on a bare hill-top at Ajnere in barren sandy Rajputana.

Hussain had not gone to fight for the temporal heritage of Ali or even of the Bani Hashim against their ancient enemies, the Bani Umyya, but for the temporal-cum-spiritual heritage of every Muslim who claimed that he had received from the Last of the Prophets him-

TRIAL OF ALI BROTHERS & OTHERS

self the inestimable patrimony that the open breaker of God's Law was not the man to administer any Law among Mussalmans. The sweet waters of the Euphrates and Tigris had not attracted him away from the brakish waters of Zem-Zem, but the far sweeter draught of martyrdom ! He did not go to deliver lectures at Kufa or Basra, but on the tablet of Karbala he engraved a lesson that shall eternally guide man-kind !

Two previous *Nazars* presented to him had been graciously touched and remitted by Allah, one at the Oldest House at Mecca by Ishmael, the " long-suffering son " of the Patriarch Abraham, and the other at another *Harem* at Calvary, when they wanted to crucify Christ " and they neither killed him nor crucified him, but his presentment was placed there for them " and thereafter Allah raised him towards Himself. But this, third *Nazar* of life was presented and *accepted*, so that the foundations of true faith may be firmly laid. The head that Hussain gave away, while with-holding the hand so sedulously sought, is the foundation stone of Islam.

But when Imam Hussain heard that Yazid had already been accepted by a large following in his father's stronghold of Syria, he asked Yazid's deputy to accept any one of his three suggestions. One was that he might be taken to Yazid to whom he would explain his position. Another was that he might be allowed to go back home to the Hajaz. But one can understand how the third suggestion must have been the one that Hussain himself liked best—that he might be allowed to go one of the Marches of Islam, there to wage Holy War against the enemies of Islam. But none of these suggestions was accepted by the cruel and blood-thirsty tyrants, and the courage that might have changed the world's history, like Ali's, if there had been no Siffin, had to show itself in such unequal combat as the valiant band of 72 could maintain against thousands at Karbala. But it is a libel on the valiant martyr of Karbala to bracket him with Mr. Kennedy's 'Orthodox Princes' who betrayed their allegiance to the acknowledged Khalifa and warred against him for their own selfish worldly ends.

And whatever the Ulama of Cordova, Seville and Toledo, may or may not have done, in the case of Abdur Rahman " the Falcon of

APPENDIX 'D'

~~Quresh~~", it is a libel on the Ulama of Islam to suggest that they did not condemn such "orthodox" princely practice. Imam Abu Mansur Maturceedi, who flourished towards the end of the third century of Hijra or of the ninth century A. D. in a place near Samarkand, said that whoever calls the Kings and Princes of our time even just is a *Kafir* for they were tyrants and Law-breakers. Similarly Imam Saffar of Bukhara who flourished two centuries later, (to quote only one more example), when asked whether it was lawful to call the reigning sovereigns just and Kings of Kings, answered that some of these phrases and designations were rank Infidelity and others involved sin and law-breaking for they were untrue and unmerited! Moulana Hussain Ahmed Sahib to whose invaluable assistance I owe so much already, had selected numerous such examples and other citations and only at my own instance had refrained from quoting them in his address to the Jury, because no evidence had been led by the Prosecution on this subject to need refutation. But we little knew that the judge on the Bench was to occupy the place of witnesses and that he was going to take judicial notice of such false history, as he said he did in answer to my suggestion, that it would have been fairer to us to have called for such evidence and to have allowed it to be subjected to the customary legal tests of truth. But, as I have suggested before, perhaps the *Alim* that was to accompany Mr. Ross Alston did not, like so many witnesses arrive in time and only reached Karachi when it was the cue for the Bench rather the witness-box to speak.

And whether fortified with this "speaking Shariat" or only with what is to be found in books, the Judicial Commissioner had an uninterrupted run, and having proved as he thought beyond denial that "Orthodox Princes have warred against the Khalifa and coerced him in the exercise of his power by the fear of the sword",—what it was permissible for a mere man to declare,—he went on to add that these same "orthodox princes" of his did so "*without incurring the guilt of sacrilege!*" That surely, Mr. Kennedy armed only with his "temporal censures", could have well left to the Great Awarder of rewards and penalties hereafter.

He has judged not only the seven accused in King Emperor

TRIAL OF ALI BROTHERS & OTHERS.

versus Mahomed Ali and six others, nor even the whole Khilafat movement and awarded the "temporal censures" that he was or was not empowered by the Law of the Land to award; but has also judged the whole of Islamdom here and hereafter and while eternally condemning Khalifas to be wilfully slain without just cause by Muslim soldiers waging offensive wars against him, he has acquitted and made to leave the Court without a stain on their character all except for the whitewash—as *Punch* said on a memorable occasion that the Premier and the Viceroy may together perhaps recollect the whole host of his "Orthodox Princes" who like him exalted self even above God. His false history may or may not be allowed to go unchallenged, but his extra-judicial and still more false theological deduction from that history could not. That is why I have inspite of none too robust a health written this long and detailed memorandum on the subject, and close this part of it with the final observation that had we from the soil of Sind permitted the unchallenged circulation of this new Evangel under the colour of sound Islamic doctrine, we would have been guilty of the worst crime that any Indian Muslim could have ever committed in the course of the twelve hundred year old history of Islam in India. Islam had entered India through Sind through the efforts of one Mahomed. It must not be driven out of it through the same gateway through the sinful neglect of another.

There is only one more of Mr. Kennedy's religious doctrines that has to be noted and refuted. It needs no great argument to prove that what a Muslim could not lawfully do while serving a Muslim Master, he could not lawfully do while serving a non-Muslim. And the Fatwa of Shah Abdul Aziz Sahib cited by Moulana Hussain Ahmed Sahib in this case specifically refers not only to the unlawfulness of service in the forces of the Sikhs and the Mahrattas of his time a hundred years ago. In fact he considers it unlawful for a Muslim to give Military help to a non-Muslim even against another non-Muslim, if thereby he aids and abetts the domination of Infidelity.

But, then, Mr. Kennedy's appeal from Religion to Reason—which in nine cases out of ten is the prelude to an appeal to Unreason—and asks us to consider the case of an enlightened and civilised Mussalman people living in a fertile province under the benign sway of some

APPENDIX 'D'

Hindu power. "Bordering the plains are hills inhabited by ferocious Muslim tribes independent and continually raiding without attempting to conquer the plains below. Is the Mahomedan who fights to repel these tribes from the hearths and homes of the Mahomedan population to go to hell, because he does so in the armies of a Hindu Prince?" This apparent poser is well calculated to set the Hindu against the Muslim and may well trouble the mind even of an Indian working for and expecting the early establishment of Swaraj, for what could be plainer than this that the Punjab is the fertile plain, and the raiding independent hill-tribes are the tribes across the Punjab border the attempted annexation of whose territory is calculated to involve Government in its next Indian War? But the solution is supplied by Islamic Law which is believed by every Muslim to be based on the best and most sustained reason, and it is this that the Muslim who resists such wanton aggression and attempts to put a stop to such disturbance of public peace may reasonably expect to be led into Paradise "with honourable entry".

I related to the Editor of "Nation" in London a Tradition of the Prophet to the effect that a Muslim must assist his brother Muslim whether he be oppressor or oppressed, and Mr. Massingham's face immediately showed a rather critical smile at this apparently fanatical and perverse doctrine. I told him, he might well smile; but even the simple-minded son of the desert could detect such obvious injustice, for a Companion of the Prophet had immediately asked how it could be just to assist an oppressing brother. To this the Prophet of God had replied that the assistance which a Muslim could render to an oppressing brother was to *prevent* his oppression! A Muslim of the Punjab fertile plains would best assist his independent raiding brethren of the hilly border by putting a stop to their raids, and that the Indian Mussalmans mean to do, God willing, when India has won Swaraj.

But Mr. Kennedy jumps from this sort of defensive warfare to an offensive war, and although he is careful to declare that "*aggressive warfare is at all times and circumstances a sin*", he brushes aside as totally unmeaning the distinction between offensive and defensive. But it is precisely because it is under cover of *defending* themselves only that powerful or bellicose nations frequently "offend" others that we must continue to distinguish between wars of defence and those of offence and aggression by whatever name they may be called, and howsoever they may be camouflaged. Islamic jurisconsults have also discussed the lawfulness of (*Hujum*) as distinct from (*Difa*) and those that declare the former also to be sanctioned by Islamic Law take care to distinguish it from aggression, which would be a thing strictly forbidden in one of the two earliest verses permitting the muslim to unsheath the sword in self-defence; "And fight against

TRIAL OF ALI BROTHERS & OTHERS

them in the way of Allah that fight against you and transgress not; verily God loveth not the transgressors"—(Sura-i-Al-Baqrah or "The Cow"—2nd chapter.)

Finally, after the grimacing sneer against "dwellers in dark corners of mosques and grabbers among old records", Mr. Kennedy asks "any Muslim who may be a Sayyad or a Faties (*Sic*)"—though why he particularises these is not clear—and at any rate Maulana Hussain Ahmed Saheb is a Syed—what he thinks of this doctrine "that a Muslim may voluntarily engage himself in the service of his Prince, may take his pay and provisions and be his partner in the glory of the kingdom, and then, when the day of peril comes, and his prince calls on his soldiers for help, the soldier is to break his plighted oath and the ties of fealty, and leave his prince to be dethroned and slain, because his prince is a non-Muslim and his enemy is a Muslim?" A puzzling poser indeed, but the more puzzling it is, the more precisely it furnishes us with an argument for appealing to the Muslim soldier not to engage himself voluntarily in the service of this Government. Let him not plight his oath at the cost of breaking the oath taken on "the day of at last" which I am thankful Mr. Kennedy in passing acknowledges in his charge to the Jury. But had we not *hammered* at the fact that no soldier in the British or any other Army in the world plights his oath to break the laws of his God even to save his Prince from dethronement and death, and had I not gone patiently through every one of the fourteen items—reminiscent of somebody's fourteen points—in the enlistment form exhibited by Col. Gwyer to prove to the hilt that while Government was careful to ask a recruit whether he would object to go anywhere that he is ordered to by land or by sea, it had not asked him whether he would or would not object to go to Hell! He is questioned about his attachment to "caste usages" interfering with "his military duty," but never a word is asked about religious Commandments, and one may well suppose that after the grim sequel of the issue of greased cartridges no Commander dare ask a soldier in India to disregard or fail in his religious duty as a Hindu or a Muslim so as not to disregard or fail in his duty as a soldier. A Government that was punctiliously careful as to make sure whether the recruit objected to vaccination or even re-vaccination, may well be given "the benefit of the doubt" always denied to us by Mr. Kennedy, and exculpated from the charge of condemning a Muslim soldier to the five-fold punishment prescribed in the Quran for wilful slaying of a brother Muslim without a just cause. Yes, the Prophet of our religion *was* the "best of men" and had the title of "Al. Amin", or "the Trusty" but it is just because he was *that* to him was revealed the verse: "O Ye faithful, do not be guilty of a breach of trust regarding God and the Prophet and each other, while Ye know it. (Sura-i-Anfal, or "The Spoils" 8th chapter). Let no Muslims voluntarily

engage himself in any service where he knowingly and wilfully betrays the trust of God and His Prophet and the trust of a brotherhood of three or four hundred million Muslims, and those that had unknowingly engaged themselves in this manner must challenge those that had deceived them. I hope Mr. Kennedy has now learnt what *our* religious convictions are even though *his* law of the land can give them no protection, in spite of Queen Victoria's Proclamation that she disavowed alike the right and the desire to impose her own convictions on her subjects.

This exhaustive, and, I must confess also exhausting refutation of Mr. Kennedy's excursion into the unfamiliar domain of Religious Doctrine leaves neither time nor space nor even inclination to deal with his judgment on the Khilafat movement contained in his charge to the Jury which is based on not so much as a word of evidence or even complaint by the Prosecution. But your Civilian is nothing if he is not thorough, and was it not Lord Morley who had likened him to Stafford for that very reason, and even mildly warned him of the fate of that believer in the policy of "Thorough"? Mr. Kennedy must needs see to it that the entire Khilafat movement, extending as it does over all India as well as beyond the confines of India, is declared illegal and suppressed, while he is about it, locking up for as many years as he can some of the principal workers engaged in that movement.

But why all this laboured and tortuous acknowledgement that the movement was not illegal in its origin, and why indeed, the first and only gift to the accused of "the benefit of the doubt" in the accepting my brother's word for it that at its inception the Khilafat movement received a certain amount of sympathy and approval both here and in England? It is not, as the *Times of India*, following the lead of the Viceroy himself, tried to assure the Mussalmans soon after our arrest that Government wished it to be known that it is still in favour of the movement rather than against it—of course, within certain limits; fact is that having tried to isolate the Mussalmans, it now wants to isolate *us* and such other of the principal workers as base the case for the Khilafat—and the Jazerat-ul-Arab—on the unalterable religious obligations of the Mussalmans. A fictitious origin within the pale of legality, as distinct from its present alleged illegal growth is assigned to the movement stated to have been favoured, if not encouraged, by "eminent persons both in India and in Europe" in those days. Then says Mr. Kennedy, it sought "to strengthen the hands of the Pro-Turk Party at home in their attempts to get the Allies to deal leniently with Turkey, or at any rate to prevent the Powers from supporting the Greeks." All this *not* because Mr. Kennedy or any other official for the matter of that, cares two straws about the Khilafat movement and its past history, *but* because they all want this roseate picture of a fictitious past to be the prospect realized in the immediate future. "Constantinople was retained for the Sultan:" shout the greedy grabbers of unearned gratitudes. But Constantinople only *detains* the Sultan,

TRIAL OF ALI BROTHERS & OTHERS.

and at any rate we were asked to be duly grateful for this small mercy to each of the Allies when our Delegation visited the Capitals of each in turn.

For our part we plead for no leniency or indulgence but stand on our *right* as Muslims to retain the Khalifat with adequate temporal power and to free the Jazeerat-ul-Arab, including mandated Mesopotamia, Palestine and Syria, from all non-Muslim control. Nothing short of this will satisfy a *Muslim* and an adherent of the Ottoman Khilafat, and we shall fling, in the face of the Grand Almoner who presumes to offer us his beggarly sympathy and the promise of *leniency* in dealing with the Turks. The Turks with God's grace, need no leniency, and the day they need it, they shall forfeit their title to the love, respect and admiration which, thank God, today they rouse in and receive from every Muslim heart! There was a time when some of the best of us like Chotani Mian, that large-hearted Muslim and Doctor Ansari, that selfless National worker were led to entertain hopes from "the Pro-Turk party at Home" and its "leniency." But sooner or later all were cured of this fatal expectation, and we thank God for this National deliverance.

That's my last word and I live in the hope that God will give me a life long enough to see my country enjoy once more her long-lost freedom and be, through that restored freedom, the saviour with God's grace of the Khilafat. That is my Faith!

AMEN!

Karachi Jail,

Sd. MOHAMED ALI

Khadim Ka'ba *



TRIAL OF ALI BROTHERS & OTHERS

The Hon'ble Mr. G. M. Bhurgri (member of the council of state) on the Trial of the Ali Brothers.

The great state trial of the Ali Brothers and other Khilafat leaders has ended. I wrote a few days before their arrest and prosecution of the unwisdom of such a course, not on the merits of the case itself, but on higher grounds than even the formal vindication of the established law of the land, penal or criminal.

My contention was two-fold; I showed that the harm arising out of that step, whether in the case of the very vindication of the law, and the maintenance of the authority and prestige of the Government or, of coping with the situation and restoring calm and quiet in the country—would outweigh all other considerations combined together. And therefore, I submitted *"that way did not lie the solution."*

I now write after the great trial has ended to examine briefly, not the judicial finding of the jury and the judge, but the position of the Government with respect to the movements of the Khilafat and the Non-co-operation, during and after the trial. I have carefully watched the proceedings and tried to study the effects of those proceedings on the public mind from day to day of the progress of the trial until the verdict of the jury and the judge and finally, the very partial convictions of the six learned Maulanas, and the acquittal of the Shankeracharya.

The first question that I would like to ask the supporters of the prosecution is, "Have the proceedings in the Courts both the lower and the sessions, added to the prestige and dignity of the law Courts and the law, or shaken that prestige and brought the ridicule and jeering of the man in the street at the dignity of the law and the law-courts"?

And then what is to be said of the verdict of "Not guilty", of the judge and jury on the *main* charge of criminal conspiracy and attempt to seduce the troops, to safeguard against and prove which the whole prosecution was, I understand, prompted! Even where the verdict of the majority of the jurors is "guilty", what is the case? The Government, by the prosecution of the seven leaders have incited everybody and anybody in the Khilafat and Non-co-operation movements to issue manifestos and pass resolutions similar to the one which was the contention of the subsidiary charges and thus defy them in their face and the law under which the leaders were being prosecuted? Has that, I ask, added to the prestige of the Government and helped to vindicate the law, or under-mined that prestige further and flouted the very law it was intended to vindicate?

Let the supporters of the prosecution once again answer after due reflection.

APPENDIX

What then is the ~~sum-total~~ result of the whole? Has it abated the fury of our Non-co-operating friends, and made them relax their programme? Or, has it been a moral and political victory of the Non-co-operator, and an impetus to him for further and more drastic action? Has all that brought solution of the great problems confronting the country, and the Government and their well-wishers, nearer, or has it made the issues more bitter, more complex and the situation graver and graver?

And yet I am not quite without hope. I see that there is yet a way to bring about peace and harmony in the country so far as the Khilafat and Turkish peace terms are concerned on which mainly rests and fosters the great non-co-operation movement.

Let the Government of India and, through it, all the supporters and the well-wishers of the country say to the British Government "Vindicate your pledges to the people of India, the pledges which Mr. Lloyd George gave to the Indian Mussalmans in 1918, before it is possible for us to vindicate the law in its reality and restore true peace and harmony in the country". That is the great truth which the Government of India themselves ought to realise first and then openly to press it before the British Cabinet.

The Government of India are fully aware of the intensity of feeling on the subject of Khilafat and the Turkish Peace Treaty among not only the Mussalmans of India but the entire Indian Community. It will serve no useful purpose, at the present juncture, to go into the rightness or otherwise of this feeling. The fact remains that nothing short of an honourable peace, consistent with the dignity and integrity of Islam would satisfy this feeling. The Government of India themselves have from time to time expressed their fullest sympathy with the people of this country on this subject. They and that great champion of the Muslim cause, the Secretary of State for India have been putting forward the Muslim view before the British Cabinet from time to time, but the reason why their efforts have not brought due recognition from and appreciation of the Indian Community is that these efforts have led to *little or no appreciable results*, so far as the early prospects of an honourable settlement are concerned.

On the contrary, unfortunate course of events that have followed leading to and in the development of the Turko-Greek War, has created a very strong impression in this country that the British Government though apparently observing neutrality, are flouting the Muslim sentiments by permitting the private supply from England, of arms, ammunition and money loans to Greece and thus equipping the Greek Armies with what the Angora troops so badly need but are unable to have.

TRIAL OF ALI BROTHERS & OTHERS.

In this connection, it is worth noticing what the attitude of the Minister was, till very lately. He was emphatic in his ratification of the statement, which he first made when approached on behalf of the Angora Government and the Mussalmans of India to intervene in the Turko-Greek War, "that the policy of his Government was to leave the issue to be decided between the Greeks and the Turks themselves". His recent statement, after the first reverses sustained by the Greek Armies that "proper moment for intervention has not yet arrived", has however, given rise to another suspicion that the present refusal may be made the pretext for an intervention of another sort, when the Greeks are completely beaten. Should this suspicion rightly or wrongly gain ground and should an intervention take place at a later stage when the Greeks are actually completely beaten, it would lead to disastrous effect not only so far as the movements of Khilafat and Non-co-operation are concerned but also as the various independent Mussalman States in Asia go. It would be going against the very vital interests of, nay, it would be a death-blow to the British Empire in Asia.

That I am no alarmist, and that this is not my view alone, but also of those who represent the Government of India. I may be permitted to point out what the Hon'ble Mr. Bray, Foreign Secretary to the Government of India said in the course of his speech on my motion of adjournment *re* the Khilafat movement in the Delhi Session of the Council of State:—

"There is a great belt of Islamic countries stretching unbroken from the south of the Straits of Gibraltar far away into Northern China. One block of India itself stands within that belt—that great frontier buttress on the North-West made up of the North-West Frontier Provinces and Baluchistan. But it is even more relevant to my present purpose that within that Islamic belt are included nearly all of the foreign countries with which India is most closely concerned. It is thus palpable that from an external point of view alone the welfare and good will of Islam must in the very nature of things be of paramount importance to India and the British Empire. This fact is in itself a powerful reinforcement of the cause which Muslim India has at heart".

Reuter informed us the other day that the Afghan armies were fighting by the side of the Turks against Greek armies. A later telegram announces conclusion of a defensive and offensive alliance between Afghanistan and Persia. These are also signs which portend the problem assuming larger dimensions and prejudicing friendly relations between England and various Islamic powers which are at present neutral. For the reason that England is the most important and influential of the Allies, and wields largest influence in the conferences and councils of the Allies, it is, as I have stated above, suspected at this moment of befriending Greece against Turkey, whereas France and Italy are said to favour the conclusion of the

APPENDIX

Treaty with Turkey, more or less on the lines laid down by Lord George in January 1918.

I have already pointed above how the recent prospective convictions have given a fresh lease of life to the grave discontent and excitement already prevalent in the country. Add to this the further excitement due to the confiscation of the Ulemas' *Fatwa*, and all kinds of rumours of Mahatma Gandhi's and other leaders' and should they resort to civil disobedience of acts of that kind. It is only desirable that the Government, not out of their weakness but their strength should pacify the discontent and excitement as far as is reasonably possible, before it is too late.

The only way by which, it appears to me, the Government of India can do so, and thus avert both the external danger of an anti-British alliance by foreign Muslim powers and internal disorders, riots and bloodshed is for the Government, for Lord Reading, and for various Governors and Governments, of course, to use to their personal and official influence with the British Cabinet to move it now at this stage to conclude an honourable peace with Turkey without waiting for the results of the Turkish War, on the lines laid down by the Prime Minister on behalf of the whole Empire in January 1918 viz., "not to deprive the Turks of their capital and rich and renowned lands of Thrace and Asia Minor."

Surely this cannot reasonably be characterised as anything like or approaching the "impossible" demand of *status quo ante bellum*. What it in fact amounts to is, that Turkey should not be treated worse than other enemy powers, that she should retain the provinces which were admitted even by the British and allied statesmen to be predominantly Turkish; the Arab provinces should be granted full autonomy, and finally that the Holy Cities of Mecca and Madina may remain under the suzerainty however nominal, of the Khalifa.

Is this too much to ask of the Indian and the British Governments, in whose hands the destinies of the country at the present moment mostly lie? Will they be so blind, stubborn as not to face facts in their true perspective, and resort to proper remedy at proper moment? No, I still retain my optimism, my faith in statesmanship and farsight of Lord Reading and his Government. I hope that they will take time by the forelock and press on the Cabinet the necessity of immediate action in the direction referred to above. (By courtesy of the Editor *Sind Observer*).

Note:—Appendix 'E' (Press Opinions) has been dropped from this edition as the volume has exceeded the anticipated proportion and could not be otherwise brought out before the ensuing session of the Indian National Congress. (Compiler)

